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Technology Center 2100

IN THE US PATENT OFFICE

EXAMINER -NGuyen

GROUP - 2161

SN - 09/900569

FILED - 7/5/01

BY - Ogino

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Date 1/13/06 (signed) 

Sirs:

Authorization is hereby give to Charge Deposit Account No. 11-1500, for the Brief Fee of \$500.00. A duplicate hereof is filed concurrently herewith.

Respectfully


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BOARD OF PATENT APPEALS
AND INTERFERENCES

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JAN 19 2006

Technology Center 2100

BEFORE THE BOARD OF APPEALS
IN THE US PATENT OFFICE

EXAMINER - Nguyen

GROUP - 2161

SN - 09/900569

FILED - 7/5/01

BY - Ogino

Sirs:

This Brief is in support of the Appeal filed 11/28/05 of the Examiner's Final Rejection of Claims 77-87 and 89-94 in the above application.

The Brief is filed in Triplicate together with the required Brief Fee of \$500.00, which is authorized to be charged to DA 11-1500 in a separate authorization filed in duplicate.

(1) STATUS OF CLAIMS

Claims 77-87 and 89-94, being all of the claims in the above application have been Finally Rejected and are now on Appeal. These claims were finally rejected on the following grounds:

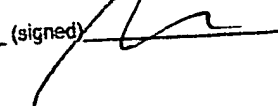
Section 103, as being "unpatentable" over TIPIRNENI 6,381,029 in view of BARNES 6,912,317.

Claims 77-87 and 89-94, subject of the Appeal, are set forth in Appendix A-G, attached hereto.

(2) STATUS OF AMENDMENT AFTER FINAL REJECTION

None of the Amendments submitted after Final Rejection have been entered by the Examiner. Accordingly, the listed claims 77-87 and 89-94 listed in Appendix A-G and on Appeal do not contain

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Date 11/13/06 (signed) 

APPEAL BRIEF

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BOARD OF PATENT APPEALS
AND INTERFERENCES

any of the proposed amendments.

(2A) LIST OF CITED REFERENCES APPLIED IN FINAL REJECTION

(1) USP 6,381,029 issued on 4/30/02 to TRIPIRNENI

(2) USP 6,912,317 issued on 6/28/05 to BARNES

(3) SUMMARY OF THE INVENTION

The instant invention encompasses system (claims 93 and 77-87) and method (claims 94 and 89-92) of registering, storing and accessing medical images and information from a plurality of subscribers connected via a generally available network to a single server having a mechanism for checking the legitimacy, such as having a registration contract and/or accessing contract, of the subscriber before allowing the registration or accessing of the medical images and information. Each of the subscribers has a registration and/or accessing contract which entitles the registration holder to transmit and register medical images produced by that subscribers imaging device in the server and entitles the accessing contract holder to access the medical information in the server through the network. The single server comprises means for registering and storing the medical images and information and means for accessing such medical images and information and for transmitting same through the network to the subscriber at its request only after the legitimacy (e.g. subscriber having the registration and/or accessing contract) of the subscriber is checked.

For example, a subscriber, such as a doctor, located at a remote office can use his computer connected to the network, to

which the single server is connected, for registering or storing medical images and information by first entering a secure code (which is assigned to the holder of registration and/or accessing contract) which is checked by the server device for legitimacy, and requesting entry of the medical images and information. After checking legitimacy, the server allows entry into the system and recording of the medical images and information provided by the subscriber.

In a similar reverse manner, upon entry of the authorization code and request, the doctor can obtain access to any authorized medical image and information through his remote computer connected via the network to the single server. The server first checks the validity and legitimacy, such as whether the subscriber has a registration contract and/or access contract, of the subscriber and request, and then, if authorized, transmits the desired images and information.

Advantageously, a single protocol is used by all of the subscribers for entry to record and to access. In other words, the entire system is "unified", that is the subscribers, network and server are integrated as one system. Thus, efficiency, reliability and simplicity are considerably improved. Also, the costs of storage and accessing of medical images and information for a wide range of users from patients, doctors and hospitals to others is greatly reduced. Also, medical care quality is greatly improved because of the ready access to medical images and information by all these parties. Also, this is possible regardless of where

these parties are located provided they can be connected to a "generally available networkd, such as the Internet, to which the "single server" is connected, and to which the "plurality of subscribers " are also connected.

Before our invention, each hospital, doctor, etc, had its own library in which it placed medical images and information. Thus, only if a party were accredited to that hospital, etc, could he store or access the stored medical images and information. There was no system which incorporated a single server connected to a network, which was "generally available" to the public, to which an unrelated subscriber could be connected for storage and accessing of medical images and information using a single protocol. All the unrelated subscribed need do was enter a "registration contract and/or accessing contract" with the system provider. He then became part of the single protocol. On the other hand, we have made that jump by having that registration contract and/or accessing contract and means for checking the legitimacy of the subscriber prior to storing or accessing. This is further made advantageous by causing all of the plurality of subscribers to use a single protocol.

Accordingly, an important feature is that "each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said

single server". Also, an important feature is "means for checking and verifying legitimacy of a subscriber seeking to access desired medical images and information by signaling through the network".

Thus, we are able to control the storage and accessing of medical images and information, such as those sent by a subscriber having "registration contract and/or access contract", at a single location, that is at the "single server", which is available through "a generally available network" to a "plurality of subscribers".

On the other hand, a stranger, i.e. without a registration and/or access contract and assigned code, would be unable to invade the "single server" or central control system used therein, to "steal" or "identify" any concerned individual or information thereof. In other words, an unauthorized third party could not "steal" any medical images or information.

Also, we thus have in the central control system "means for processing and delivering said medical images and information through said network to said subscriber seeking access after checking and verifying legitimacy of the subscriber to the desired medical images and information". Moreover, in our system we include in the "single server", mechanism for "compressing" and "decompressing" the information data sent through the network. This allows for large scale storage of data from the plurality of subscribers using only a "single server" connected to the "network" available to the "plurality of subscribers". Also, we have in

the single server a backup system for the medical images and information which are registered in the data base. In this manner, safety, reliability and permanance are realized.

Other features and greater details are covered by the subclaims and will be discussed further under the heading "Arguments".

(4) ISSUES

The sole issue on appeal is: "Is the invention recited in claims 77-87 and 89-94 made obvious under Sec. 103 by a combination of TIPIRNENI 6,381,029 in view of BARNES 6,912,317.

(4A) APPLICANT'S POSITION

It is Applicant's position that the invention recited in claims 77-87 and 89-94 is NOT (NEGATIVE) made obvious by any combination of TIIRNENI and BARNES; and furthermore, that all of such claims are allowable as reciting an invention which meets all the statutory requirements for patentability.

(5) GROUP OF CLAIMS

There is only one group of claims. Main Claim 93 and subclaims 77-87 depended from main claim 93 are directed to a system/apparatus. Main claim 94 and subclaims 89-92 depended from main claim 94 are directed to a method.

Pursuant to the Rules on Grouping of Claims, Applicant hereby states that the claims of the above group does not stand or fall together. In the "Arguments" portion ehreof, each and every claim will be discussed and arguments presented as to patentability.

(6) ARGUMENTS

In the following discussion, Applicant will first present

argumentation as to the main claims 93 and 94, which are similar except one (93) is directed to the system/apparatus and the other(94) is directed to the method. The arguments will then be directed to each claim and the contentions of the Examiner.

CLAIMS 77-87 and 89-94 REJECTIONS UNDER SEC. 103 WITHOUT BASIS CLAIMS ARE ALLOWABLE.

There two main claims 93 (directed to system) and 94 (directed to method). The remaining claims are sub-claims. Each of the sub-claims, and the Examiner's comments directed thereto, will be set forth hereinbelow.

MAIN CLAIM 94 DIRECTED TO METHOD

Although the Examiner has alleged "claims 77-87 and 89-94 stand rejected under 35 USC 103(a) as being unpatentable over Tipirneni (6,381,029) in view of Barnes (6,912,317)" there is not one word of her specific reasons or ground for such rejection of the method claim 94. The same applies to the sub-claims 89-92 which depend from claim 94. The specific comments are directed to the specific wording of the system claim 93 and its sub-claims. There is no discussion of the specific method steps or wording thereof of main claim 94 and sub-claims 89-92.

This is in complete disregard for the requirements of MPEP 706.02(j) which requires that the Examiner in a Sec. 103 rejection set forth in the office action..."(A) the relevant teaching of the prior art relied upon, preferably with reference to the relevant column or page number (s) and line number(s) where appropriate.."

The only reference in the office Action to claim 94 was namely "Regarding claims 93 and 94... Tipirneni discloses... with everything set forth being directed only to the wording of the systems claim 93. There is not one word directed to the method steps of claim 94.

Clearly, the comments directed only to the systems claims 93 and 77- 87 are not (negative) necessarily applicable to the method steps of method claims 94 and 89-92. Hence, it is clear that the Examiner's lack of grounds for rejection does not support any rejection under Sec. 103.

In other words, the Examiner has not legally and factually supported her rejection of main claim 94 (and also sub-claims 89-92 dependent therefrom) in the MANNER REQUIRED BY THE MPEP.

Thus, Applicant's due process rights have been violated, and these method claims 93 and 89-92 were not validly rejected. The Examiner's actions are ARBITRARY AND CAPRICIOUS.

Accordingly, method claims 94 and 89-92 should be allowed, and such allowance is respectfully requested of the Board.

However, without prejudicing our position, to be completely responsive in the Appeal, applicant will incorporate in the arguments merits of method claims 94 and 89-92 when discussing the merits of system claims 93 and 77-87.

MAIN CLAIM 93 DIRECTED TO SYSTEM

To set the stage for the arguments, we will first discuss

generally the invention, references and main claim 93. Then, we will discuss the specific allegations set forth by the Examiner.

General Comments and Argumentation

Briefly, our invention encompasses "medical image servicing system (claim 93 et al) and "method" (claim 94 et al) comprising "a single server" at one location connected to a "network generally available to the public", such as the Internet, and to a "plurality of subscribers" located remotely thereof and being "commonly" thereto. The "single server" has "a data base", and "means for checking and verifying legitimacy of a subscriber seeking" seeking "registration" and/or "access. The "single server also comprises "means for registering in said data base medical images", and "means for processing and delivering medical images after verifying the legitimacy (e.g. holder of registration contract and/or access contract) of the subscriber.

We further recite that "each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through the network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images storedf in said single server".

The medical images and information, subscriber ID, instructions on processing, etc, can be sent from the subscriber through the internet to the single server, which is commonly accessible

to the plurality of subscribers, and upon verification of the legitimacy of the subscriber and request, the subscriber can send the medical images and information for registration, storage and/or processing to the "single server". Similarly, the request can be made for the delivery of the medical image or information or processed images and information from the "data base" and "single server" through the "network" to the "subscriber".

Advantageously, our invention enables increased availability of medical services throughout the USA at very low cost. All a doctor, for example in Wyoming, has to have is a computer in his office, to store, process and access medical images and information through out invention. He can also have an imaging device in his office and the medical images therefrom can be registered and stored with the "single server" at the remote location, such as in NYC. The remote doctor does not need to have any expensive equipment to store and process the medical information, since processing can be done at the "single server" side with equipment contained at the "single server" location. He does not have to use different protocols for different hospitals, libraries, etc to register, store and process and access various medical images and data. It will be like one person having a huge and expensive "back office", without the expensive cost of same. Because of our invention, cost of medicine is rapidly decreasing and effectiveness is increasing.

Other features of the invention include in the "single server" "means for compressing" and "means for decompressing" data. Thus, the invention provides greater storage capacity and increased transmission capacity, thus lowering cost further.

Also, our invention includes "means for providing backup..." Thus, safe permanent storage is assured by our invention.

The Examiner alleges that TIPIRNENI teaches all of the elements of our invention as recited in main claims 93,94, except for the "decompression" of data, which she alleges is taught by Barnes, and that therefore, under Sec 103, the invention as recited in claims 77-87 and 89 -94 are "unpatentable" since the invention recited in such claims would be "obvious" by the combination of the cited references Tipirneni and Barnes.

Applicant strongly disagrees with the Examiner. First of all Tipirneni does NOT teach or make obvious all of the elements of our invention, including the structural feature and the operational features thereof, as recited in the rejected claims. Moreover, the "decompression" step per se is not being claimed by us to be novel in itself. What we are asserting is that the combination of structural features and operational features in the manner recited in our claims is not taught by nor made obvious by the combined references Tipirneni and Barnes.

The following elements of claims 93 and 94 are not taught by nor made obvious by Tipirneni and/or Barnes singly or in combination and in the structural and operational combinations set forth in the claims. Please note, we are not claiming each element to be patentable and/or novel when considered separately, as the Examiner seems to believe. It is the combination of components and functions which make up our invention... and it is the combination which the cited references do not teach or make obvious.

(1) we recite "a plurality of subscribers" connected to the "network". If a physician is to be considered the subscriber, then, Tipirneni shows only one subscriber. This is separate from the camera 10 and uploading system 50.

(2) "each" subscriber has a "registrate contract and/or access contract" which enables him to transmit the medical image through the network for registration or request access to the registered data.

(3) "a single server" connected to the network, which comprises the following components...

(4) "data base"

(5) "means for checking and verifying legitimacy of a subscriber" that has a register and/or access contract.

(6) "means for processing and delivering said medical images and information through said network to said subscriber seeking access after checking and verifying legitimacy of said subscriber to said desired medical images and information".

(7) "means for registering in said data base medical images and information transmitted through said network by siad at least one subscriber"

(8) "means for compressing" and "decompressing" data, and

(9) "means for producing backup".

General Discussion of TIPIRNENI the Primary Reference.

Tipirneni's system (FIG. 1) comprises internet 100, to which are connected Physician computer 150, host server 110, and upload system 50 to which is connected camera system 10. FIG. 2 details contents of camera system 10 (NOT, as seemingly alleged by the

Examiner details of server 110). FIG. 3 shows details of the upload system 50. FIG. 9 shows flow diagram of the uploading process. None of the other figures are discussed by the Examiner.

Storing of images from camera 10 is done using the upload system 50 which is connected through the internet 100 to host server 110.

Accessing is done (with appropriate password checking) by computer 150 through the internet 100 to the host server 110.

That is completely different from applicant's invention which has a "plurality of subscribers" which can itself produce medical images and information, which is sent through the "network" by the authorized subscriber for registration in the "single server" "data base", and then accessed by the authorized subscriber through the "network" from the "single server".

In other words, for a "plurality of subscribers" "each of which has an imaging device" "for producing medical images and information, using a common single protocol, the "medical images and information" can be sent through the network by that subscriber for registration in the "single server""data base", and then that or other subscriber can access the "registered" "medical images and information" through the "network". Look at our invention this way. Our invention provides a library, such as in NYC, which is connected through the "network" to a "plurality of subscribers" each of which having a "registration and/or access contract" can use that library for registration or storage of medical information and information which the subscriber can originate and then have access to that medical images and information stored in

"data base" of the "single server". Appropriate means are provided in the instant invention so that the appropriate contracts and ID can be checked and verified prior to allowing for registration and/or access. Advantageously, a single processing protocol can be used by all of the "plurality of subscribers" to obtain registration and/or access. Advantageously, the subscriber can be located a distance from the single server, such as in Montana with the server being in NYC. Thus, a unified single library is now available with our invention to greatly expand data base analysis for research and usage.

In contrast, Tipirneni's host server provides a "webpage" for the material sent by the "camera system 10" which is separate from the "physician's computer 150". There is nowhere shown or made obvious by Tipirneni, a "plurality of subscribers" wherein each has an "imaging device" for providing "medical information" for "registration" in the "single server" and for "access" therefrom through the "network". Moreover, there is nowhere shown any hint of the requirement of a "registration contract and/or access contract" to enable the holder to "register" and/or "access" such images and information, as required in our recited invention.

The physician's computer only obtains the "webpage" provided by the server. There is no provision for the physician to "register" and/or "access" medical images which he himself generates with an "imaging device" that he himself has. The camera system 10 is completely separate from the "physician computer 150".

Thus, even if Tipirneni were extended, he would still not show or make obvious our recited invention. There is no teaching which can be extended to make obvious a "plurality of subscriber" "each having a registration contract and/or access contract" which enables him to transmit through the network medical images to be registred and then he or others having the access contract and authorized to access that registered medical images" EEach subscriber has an "imaging device". Thus, for example, a doctor in Wyoming can produce medical images himself and then have same registered/stored in the "data base" of the "single server" "connected to the network" which can be located for example in NYC. He or other authorized subscriber can then access such registered medical information through the "network". There is nothing in Tipirneni to teach such plurality of subscribers which has an imaging device and then which can transmit medical information through the network for registration/storage and then access.

All that Tipirneni teaches is that a camera system can store some image (in its own storage... not in the server) and then upload into the host server as a webpage, which can then be received by an authorized computer.

The Examiner has taken separate functions and without any teaching by the art, combined same and then reached the conclusion that such was obvious. It is only the Examiner's arbitrary and capricious prejudgment which is used to reject the instant invention. There is no reasonable application of the facts and law to the rejection. The Board should reverse the Examiner.

Clearly, Pipirneni does not make obvious under 103 the instantly claimed invention of claims 77-87 and 89-94.

General Discussion of Barnes, the secondary reference

Barnes was cited to show means for decompressing data size to original data size (col. 3, lines 14-35) and means for producing a backup (col. 3, lines 36-57). Clearly, Barnes has no relation to the instant invention. All Barnes teaches is a generalized teaching of decompression of data size and a backup. But, since Tipirneni does not teach or make obvious any of the other elements of the recited claims 77-87 and 89-94, even if combined, our invention would still not be taught or made obvious by the combination of Tipirneni and Barnes.

In FIG. 10, a PAC 10 comprises a file server 18 which receives and processes image data and makes same available for decompression. Also, PAC 10 comprises an archive 30 which serves as a backup.

Insofar as relevant, Barnes merely teaches a decompression technique based on information encoded in an image data file. A decompression portion is provided in code appended to the image, which is then operated on to provide the compression or decompression.

However, nothing is shown or made obvious of our recited "plurality of subscribers using the internet to register and/or access the medical images in a single server."

We are not asserting that "decompression of data" or "backup" per se are novel. It is the invention as expressed by the totality of the different structural and operations recited in the claims that we are asserting as novel and patentable. That is not shown

or made obvious by the references Tipirneni and/or Barnes whether considered singly or in combination.

Accordingly, clearly, the claims 77-87, and 89-94 are novel and patentable under 103 and the combined references are clearly lacking in evidential value. They do not support the Sec. 103 rejection and the Board should therefore reverse the Examiner.

Specific Allegations Regarding Claims 77-87, and 89-94
and Applicant's Response

The Examiner has (1) set forth each (except one) clause of the claims and then (2) set forth the specification parts of the references relied upon to show the clause. HOWEVER, that is not sufficient under the MPEP, nor the rules governing due process necessary to avoid the Applicant's being subjected to arbitrary and capricious action by a governmental official. This is because the Examiner has not (negative) in any logical manner connected up the reference teachings to the invention. The Examiner's rejection lacks coherence, relativity and substance. This is despite the Applicant bending over backward to explain our invention and the prior art. It seems that the Examiner had since she was assigned the case in 2001, prejudged the case and that all the subsequent actions on her part were to merely support her prejudgment.

The Board should be aware that Applicant already appealed once because of the arbitrary manner in which the examination was first handled. Since it appeared that another Examiner had then sent us another office action, we withdrew the appeal. But, somehow, the same Examiner again reappeared with the same type of arbitrariness.

We only seek the examination every applicant is entitled to, that is namey, for this appeal brief a third party Examiner consider

de novo the rejections.

What seems to be the case is this: The Examiner alleges that our claims recite A,B,C, etc; that reference Tipirneni specifically show A,B, etc; and that therefore combined with Barnes which shows C, the invention is made obvious, under Sec. 103.

The Examiner has not made a proper rejection. First, it is the totality of the claim, that is the combination of elements in the claim which must be considered... not.. whether each element is shown. Our claims connect up the different elements thereof to produce a new result. NOWHERE DOES SHE DISCUSS OR EVEN HINT AT DISCUSSING, WHAT IS OUR INVENTION WHEN ALL OF THE ELEMENTS OF THE CLAIM ARE CONNECTED TOGETHER AND THE RESULTS THEREOF.

Second, even the specific wording of the claims are not rejected in the proper manner or lack thereof accounted for. For example, we recite "registration contract and/or access contract" which enables the holder thereof to "register" and/or "access" . Where is that type of contract holding discussed. Also, in each "subscriber" there is claimed "imaging device". But, nowhere in any of the references is this shown, much less discussed by the Examiner. Another example is which of the "camera system 10" or "physician computer" is the "plurality of subscriber". There are so many deficiencies to this rejection, that it is difficult to list them all. But, we shall try in this Appeal Board Brief, so that the Applicant will receive that which he is due, a patent on its invention.

We now set forth each and every allegation with our argument.

(1) The Examiner alleges "Regarding claims 93 and 94, Tipirneni discloses a network generally available to the public (100, Fig.)"

Although Tipirneni shows "internet 100", it is not in the same context as in Applicant's recited invention. The only evidential value to Examiner's comments is that the "internet" is a known fact. But, as discussed below, the interconnection of the other parts of our recited invention are not shown or made obvious by Tipirneni.

(2) "a plurality of subscribers having imaging devices for producing medical images and connected to said network for transmitting through said network said produced medical images for storage"(col. e, line 7-62 and col. 6, lines 58 to col. 7 lines 7)

Regarding col. 3, lines 7-62, this refers to Figs. 1 and 2 (which discusses camera system 10) Thus, Figs. 1 and 2 do NOT show "a plurality of subscribers". The Examiner can contend that either camera 10 or computer 150 can be the "plurality of subscribers", but, not both. Thus, there is no "plurality of subscribers" shown or made obvious by Tipirneni. Also, camera 10 comprises in FIG. 2 a camera 12, digitizer 14, storage 16 connected to uploader 50. There is no "imaging device" in the "plurality of subscribers", as recited in our claims 93,94.

Thus, on this point, the Examiner is in FACTUAL ERROR. The Examiner does not seem to have carefully read the wording of this clause, nor has she carefully studied the reference Tipirneni. Unfortunately, she has not set forth her reasoning or analysis of the claim wording or of the reference teaching at this point.

Regarding col. 6, lines 58-col. 7, line 7 discusses system 5 of Fig. 1, and a password protection on multiple levels. It has no relevance to the quoted portion of claim 93, as above recited.

We are totally confused as to the relevance. We suspect the Examiner has merely thrown in this citation to give the semblance of reasonableness of rejection. But, factually, "password protection" has nothing to do with the claim.

Our system (and method) differs from Tipirneni in that we have a plurality of subscribers each connected to the network and a single server also connected to the network, with each subscriber having an imaging device for producing medical images which can be transmitted for storage in the server through a network. The subscriber has a contract for registration and/or accessing.

In contrast, Fig. 1 of Tipirneni shows one physician computer 150, one server 110, and separate from the physician computer 150 a camera 10 and uploading system 50, all of which are connected to the internet in the manner shown in Fig. 1. The computer 150 does not have camera 10 and uploader 50, or vice versa.

Thus, the Tipirneni system is completely different from and cannot be extended to make obvious our recited invention. The structural details and the operational details are completely different from and not made obvious by Tipirneni.

(3) "wherein each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the

subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said single server" (col. 6, line 58 to col. 7, line 7)

As above discussed this part of the reference discusses a "password protection on multiple levels". There is a passage stating that the operator may provide "temporary or permanent password" which entitles the user to become a temporary or permanent facility user. But, there is no disclosure of a subscriber having a "registration and/or access contract" which entitles the holder to register and/or access the medical information stored in the server after transmittal through the network.

But, note that Tipirneni refers only to "limit access to the webpage created by uploader system 50". In other words, in our invention, the subscriber can transmit its own image device obtained medical images through the network to the single server for registration and/or processing, provided he has a "registration contract". Also, with an access contract, he can then access such medical images.

In contrast, Tipirneni uploads images from camera 10 using uploader 50 and sends same through the internet to the host server. Then, a separate physician can read a webpage of the server containing the image sent by camera 10. It is not the physician that obtain the medical image or sent same through the internet.

It can thus be seen that our invention is completely different from and not made obvious by Tipirneni. Our combination of claims

elements and operations is clearly not shown or made obvious by Tipirneni.

(4) "wherein said medical images associated with at least one image selected from the group of imaging devices producing MRI, X-ray CT, ultrasound, PET, digitalized X-ray and CR" (col. 3 lines 37-62).

We are not asserting that these imaging devices are novel or patentable per se. However, in the combination recited in claims 93 and 94, it is the combination which is novel and unobvious and hence deserving of a patent.

Note, that our imaging device is provided within each subscriber which then provides the medical images which are then sent via the network to the single server for registration.

In contrast, camera 10 sends its images to the uploading system for storage and then uploading of the images to the host server for transcription onto a webpage. Careful reading of Tipirneni will show that his disclosure is nowhere close to our recited invention, nor made obvious thereby.

(5) "said single server, being separate from and used commonly by said plurality of subscribers, and being connected to said network for servicing said plurality of subscribers upon signalling from said plurality of subscribers" (100, 50, 150, 110, fig. 1)
"said single server comprising a database for storage of said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network upon signaling by said plurality of subscribers" (16, fig. 2).

The Examiner errors FACTUALLY. The "host server 110" is the

only server shown. It is connected to internet 100 and serves single physician computer 150. The cited item 100 is the internet, item 50 is the uploading system, item 150 is the physician computer, and item 110 is the host server. Thus, except for server 110 connected to internet 100, the Examiner is in complete error. Facts are facts and cannot be changed by wishful thinking or by an assertion of their being that which they are not.

Also, Fig. 2 shows details of camera system 10. It is NOT detailing of host server 110. Item 16 of Fig. 2 is a "storage" inside of camera system 10. It is not located within the server. It is also connected to the uploader 50.

Thus, the image from camera 10 is stored in the storage thereof and not stored within the data base of the single server as in our invention. So, a fair reading of Tipirneni will show that the images from the camera are stored in the storage thereof and then through the uploader 50 cause to be placed on a webpage for distribution by the server 110.

This is clearly not the same as nor could it make obvious the registration and accessing methods used in our recited invention. There is no similarity which can be extended to make obvious our invention. In point of fact, any extension of Tipirneni would still not show or make obvious our recited invention, regardless of whether the Barnes contribution of decompression and backup are added.

(5A) The Examiner does not mention the clause "a data base for storage of said medical images produced by said imaging devices

of said plurality of subscribers and transmitted through said network upon signaling by said plurality of subscribers".

According to the Rules, we can then assume that the Examiner concedes there is no such component shown in the prior art in the combination recited.

Thus, the Board should reverse the Examiner's rejection since the rejection is fatally defective on its face.

(6) "means for checking and verifying legitimacy of said plurality of subscribers seeking to store said medical image in said database of said single server or seeking to access said medical images stored in said data base of said single server" (col 6, lines 12-38)

The quoted part refers to Figs 3 and 9. Fig 3 is a "diagram of the uploading system in more detail". Fig. 9 is a "flow diagram of the process for uploading images from the uploading system to the host server".

Thus, clearly, the components shown in Figs 3 and 9 are NOT part of the recited "single server" of the instant invention. Note, our claim 93 refers to the "means for checking..." as being a component of the "single server". Tipirneni shows these as being part and parcel of the "uploading system 50" and NOT as a part of the host server 110.

Accordingly, in point of FACT, col. 6, lines 12-38 does not meet the wording above recited in this clause of the claims.

Moreover, note that we check and verify whether the subscriber is entitled to register and/or access the registered medical data

and information depending on the subscriber's contract.

(7)"means for registering in said data base said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network by ones of said plurality of subscribers having a registration contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy" (col. 7, lines 30-65)

Again, there is factual error. There is no data base in the host server 110 of Tipirneni. Also, the Examiner has not cited or offered in comments on lack of data base in any part of the office action. Moreover, Tipirneni does not produce medical images from imaging devices belonging to the subscriber. Also, Tipirneni has nothing to do with "registration and/or access contract". Also, there are no "means for registering shown in "host server 110".

Thus, clearly, this clause is not shown by nor made obvious by the Tipirneni disclosure. The Board should reverse the Examiner.

(8) "means for accessing in said data base said medical images registered therein by ones of said plurality of subscribers having an access contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy"(col. 8, lines 31-62).

This means is not shown by Tipirneni, since he has separate "uploader" and "camera" and does not have "a plurality of subscribers" each having an "imaging device" and a "register contract and or access contract". Tipirneni has a computer 150" which accesses a "webpage" from the host server through the internet. The webpage

is produced by the uploading system and sent to the host server for distribution through the internet to the physician's computer 150.

Clearly, this recited clause is not shown by nor made obvious by Tipirnenialone or in combination with Barnes. The Board now has ample reason for reversing the Examiner and should do so.

(9) "wherein said storing being equivalent to said registering of medical images in said data base" (col. 5, lines 10-34) and "means for compressing in data size said medical images when transmitted through said network (col. 5, lines 10-34).

The language regarding "storing" and "registering" was intended to forestall any objection to such alternate uses.

The col. 5, lines 10-34 merely states that compression techniques are known. We are not asserting that such compression is novel or patentable by itself. Our claims recite such compression together with the other components of the claims which combination of structure and functions, we are asserting to be novel and patentable.

(10) The examiner alleges that Tipirneni does not show decompression nor means for backup, but that Barnes shows decompression and backup, and that combining these two references would thus make applicant's invention obvious under Sec. 103 and therefore unpatentable. This is stated at page 4, lines 3-page 5, line 2 of the OA mailed 9/13/05.

Applicant respectfully disagrees with the Examiner. First, Tipirneni does not show or make obvious all of the recited elements of applicant's main claims 93, 94, except for the Examiner's decompression step and backup. We have set forth the reasons for

disagreeing with the Examiner in the above. As to Barnes, the Examiner has cited col. 3, lines 14-35 and Col.3, liens 36-57 as showing means for decompression and backup respectively.

But, as discussed we are not asserting that "decompression" and "backup" are per se novel. What we are asserting as being novel and unobvious, is the combination of elements in the main claims 93 and 94. Clearly, the combination of Tipirneni and Barne do not show such combination of elements, nor make same obvious.

Tipirneni as above set forth has only a camera system and uploader connected to the internet, to which are respectively connected a host server and a physician's computer. That is nowhere close to our plurality of subscribers, each having an imaging device which produces medical images which can be transmitted to the singler server for registration using the network, and then accessing the stored medical images using the network, provided that subscriber has a registration contract and/or access contract.

Tipirneni has the camera system and uploader separate from the physician computer. In point of fact, careful reading of the disclosure shows that the images are stored in the camera system and then uploaded for placement on a webpage, which then is accessed by the separate computer.

Adding the decompression and backup means, does not add anything relevant to the Tipirneni disclosure vis-a-vis our recited invention. Accordingly, the Sec. 103 rejection of the main claim 93 and 94 is clearly without merit and should be reversed by the Board.

To repeat again, the due process mandated by the Law has not

been accorded applicant in that the Examiner rejects main claims 93 and 94, but does not support such rejection as to method claim 94. NOT ONE WORD ,EXCEPT RECITING OF 94, IS DIRECTED TO THE WORDING OF CLAIM 94 NOR ANY DISCUSSION OF HOW TIPIRNENI WOULD SUPPORT SUCH REJECTION. (See page 2, line 8 from bottom through page 5, line 2 of Office Action of 9/13/05).

Therefore, the Board should consider that Method claims 94 and 89-92 which depend therefrom are allowed since there is no recitation or discussion of the wording of claim 94 (and 89-92) nor any recitation or discussion of particular parts of the cited references would support such rejection. Such allowance is respectfully solicited.

Subclaims 77-87 and 89-92 Rejections not supported
By Facts; Claims are allowable

Subclaims 77-87 and 89-92 were also rejected under Sec. 103 as being unpatentable over Tipirneni in view of Barnes. Applicant respectfully traverses such rejections as being without foundation. No combination of the cited reference teaches or makes obvious the recited invention of sub-claims 77-87 and 89-92.

It is to be understood that the below arguments direct to the subclaims are in addition to the arguments set forth with respect to the main claims 93 and 94 from which these subclaims depend, and that all such arguments are to be considered part and parcel hereof by reference, and are to be considered to be repeated hereat.

In addition, it is to be understood that even though the sub-claims 77-87 and 89-92 are subclaims, the subject matter thereof in each subclaim is patentable above and beyond the subject matter of the main claims 93 and 94 from which the sub-claims depend. Thus, each claim will be considered to stand on its own for patentability.

Each of the claims 77-87 and 89-92 will now be discussed. It is noted that the Examiner has only repeated the wording of each subclaim and set forth the particular part of Tipirneni relied upon for the rejection, in the same manner as rejection of the main claims. This again necessitates our reciting again the wording of each subclaim. But, the Examiner does not apply and discuss specifically how the recited part of the reference applies to the rejection. It is as though the Examiner throws a ball and says to applicant catch it and tell me about it. That is not only unreasonable, but, arbitrary and capricious. Especially when we've discussed same in detail priorly... but, the Examiner has never countered our arguments. This is not an examination and prosecution. It is prejudgment and arbitrary rejection based on her prejudgment.

Subclaim 77. "...all the limitations of this claim have been noted in the rejection of claim 93 above" We are not quite sure what the Examiner means, except that we assume she means that all of the subject matter of the main claim have already been discussed and will not be repeated hereat. Similar wording is set forth in the rejection of the other subclaims, and will not be

repeated for sake of convenience and needless repetition.

The Examiner then states "In addition tipirneni/Barnes.." He then only refers to Tipirneni, in the specific parts of the reference relied upon for support of the rejection. Thus, we will not make reference to Barnes since the Examiner does not refer to any specific parts of Barnes. It will thus be assumed that reference to a specific part of the reference refers to Tipirneni, in the following discussion of all the subclaims.

"wherein said plurality of subscribers comprises a hard copy device"(100 of Fig. 1) . Item "100" is the "internet". Thus the Examiner errs factually. But, he is in error also because Tipirneni has no "plurality of subscribers" as above discussed. Also, if the Examiner is refering to item 10, the camera system, that is not a "hard copy" device. The camera takes images , stores same, and then using the uploader system uploads the images to the webpage in server 110.

"wherein said at least one subscriber transmits format information including image identifier information to said hard copy device, wherein hard copy device receives delivery information through said images corresponding to said image identifier information through said network and the provides a hard copy of said medical images" (col. 3, line 63-col. 4 line15).

The quoted part refers to Fig. 2 and the operation of the camera system 10, wherein the camera 12 sends images to digitizer 14, and then image storage 16, and then for uploading by system 50. There is nothing about "format information" "image identifier information" "hard copy devicer". The Examiner is again in FACTUAL

error, and there is no LEGAL BASIS for the Sec. 103 rejection of Claim 77, and the Board is asked to reverse the Examiner on this point.

Subclaim 78 . "wherein said plurality of subscribers comprise a software executing subscriber running medical software for transmission through said network to said single server" (col 4, lines 16-42). This portion refers to the "uploader system 50," and software used therein. It does not refer to refer to "running medical software for TRANSMISSION THROUGH SAID NETWORK TO SAID SINGLE SERVER". There is a difference between using the software (as done by the uploading system of Tipirneni), and sending software through the network to the single server. It seems that the Examiner does not appreciate this difference. In any case, there is no support in Tipirneni to make obvious this feature of claim 78, and hence the claim is believed allowable.

"wherein said single server manages medical software and registers said medical software transmitted through said network by said at least one subscriber in said database and causes delivery of said medical software through said network to said software executing subscriber" (col. 6, lines 12-38). Fig. 3 refers to the "uploading system 50", and Fig. 9 refers to the flow diagram thereof.

There is no connection between our recited "single server" which manages the "medical software", and the "uploader system 50" of Tipirneni. Apparently, the Examiner has not carefully read and understood what exactly he is showing and doing. The rejection basis is so far off, that our legitimate conclusion is that

the Examiner has prejudged the case and is arbitrarily shoe-horning Tipirneni teaching to fit that prejudgment, regardless of what the facts are. The board is asked to reverse here rejection of this and all the other claims.

Subclaim 79. "wherein said plurality of subscribers comprise two or more subscribers, each connected to said network" (100, 150, 50 of Fig. 1). The Examiner is wrong. Tipirneni does not show "a plurality of subscribers", nor "two more more" Item 100 is the "internet". Item 150 is the "physician computer". and item 50 is the "uploading system". If computer 150 is the subscriber, there is only one. If "uploader system 50" is the subscriber there is only one. Item 100 is the internet. If he refers to camera 10 (details shown in FIG. 2), then there is only one. Moreover, there is nothing in the cited reference which would be extended to to make obvious the claimed invention. Also, note uploader system 50 is shown in detail in fig. 3, but still it is only one.

Subclaim 80 "wherein said plurality of subscribers comprises means for specifying types of image processing to be communicated through said network to said single server" (col. 3, lines 38-63)

This part of the reference describes contents of the camera system 10. However, it does not comprise means for specifying types of image processing to be communicated through the network to the single server. Note where the image processing is done in our invention, the single server. The description of the camera system 10 describes what is done to the image in the camera system. Thus, there is no description in Tipirneni of the quoted part of our

claim and the Sec 103 rejection has no basis and should be reversed.

Subclaim 81 "wherein said single server comprises means for informing said at least one subscriber through said network of type of image processing to be applied." (110, fig. 1).

Item 110 in Fig. 1 is the "host server". But, we are claiming the "means for informing..." which is part "comprises" of the "single server". Insofar as we can tell after careful study of Tipirneni, "host server 110" does not have such a means. Thus, clearly, the Examiner has no basis for the rejection and her rejection should be reversed and the claim allowed.

Subclaim 82. "wherein said single server comprises means for establishing communication with said at least one subscriber when image processing is completed" (110, 100, 50, 150 fig. 1).

Item 110 is the "host server", Item 100 is the "internet" (Item 10 is the "camera system", Item 50 is the uploader system" and item 150 is the "physician computer". But, none of these items are equivalent to the instantly claimed "single server", nor are they "comprised within the single server", nor does such "server" comprise means for establishing communication with the subscriber when the image processing is completed. Thus, clearly, There is no teaching which would show or make obvious the quoted part of claim 82, and hence, the Sec. 103 rejection is without foundation and should be reversed.

Subclaim 83. "wherein said plurality of subscribers comprise means for transmitting through said network to said server, a request for medical images subjected to image processing" (col. 3,

lines 38-62). This portion of the cited reference discusses FIG. 2 and the details of the camera system 10. It does not describe the "plurality of subscribers", nor any means therein which transmits a request for images subjected to processing. Note, that this is a request transmitted from the subscriber through the network to the server. That is not done by the camera system 10. Thus, clearly, there is no support for the 103 rejection and the rejection should be reversed and the claim allowed.

"and means for receiving said medical image from said single server through said network" (col. 5, lins 10-34) This is a part of each of the "plurality of subscribers". Receiving of the web page is by "physician's computer". But, the "means for transmitting" is done by the "camera system 10 and uploader 50". Thus, the language of our claim is not met by any of the elements of Tipirneni. Thus, the Sec. 10 rejection as to this point also is unfounded. The rejection based on this point should be reversed.

Subclaim 84. "wherein said single server comprises means for storing each medical image in at least one form before image processing (as compressed) " (col 5, lines 10-34) The referred to part describes the "uploader system 50, not any "single server" or part thereof which is recited in our claim. Note the difference it is the uploading system (or camera system) which stores any camera image. IT IS NOT THE "SINGLE SERVER". Thus, this portion of our claim is not shown or made obvious by Tipirneni. Accordingly, the Sec. 103 rejection is without basis and should be reversed.

"and means for storing each medical image in at least one form (decompressed) after said image processing" (col. 3, lines 14-35) This part describes the uploading system 50; not our "single ser-

ver". Thus, this element of our claim is not shown or made obvious by the reference, and the rejection should be reversed by the Board. The uploading system is not the "single server" of our invention.

Subclaim 85. "wherein said request is for only part or all of said medical image and wherein said part or all of said medical image are sent through said network to said plurality of subscribers" (col. 5, lins 10-34) Again, this part describes the "uploading system" and not the "single server " of claim 83. Also, we refer to "only part" of the "medical image". Careful reading of Tipirneni does not show any sending of only a part of the medical image through the network to the subscriber. The part of Tipirneni refers to the uploading system 50 but, even then, there is no discussion of sending only "part of" the image. Clearly, there is no support for this rejection.

Subclaim 86. "wherein said single server comprises means for polling said plurality of subscribers through said network to collect medical images before image processing" (col. 6, lins 12-3)

The referred to part describes Fig. 3 and 9, the uploading system and procedures used thereby. But.. there is not one word of any "means for polling". "before image processing". The Examiner is way off base on this point, and the rejection is without basis and should be withdrawn. The "uploading system" is not the same as our "single server" and therefore under no condition can it have any "means for polling", which it does not have under any condition. The rejection is without basis and should be withdrawn.

Subclaim 87. The Examiner mentions "Tanaka" but does not cite same. This is probably because the entire office action seem to be a computer run-off of the original first office action 4 years ago with only substitution of patentee's names. But, in any case, since Tanaka was not cited, we will not discuss same. The claim reads "wherein said single server comprises means for sending through said network to a delivery destination imaging conditions for said medical images "(col. 6, lines 12-38). This part refers to description of Figs. 3 and 9, which is the "uploading system 50". This has nothing to do with the instant "single server" nor "means for sending through the network to the delivery destination the imaging conditions, as recited in our claim. The uploading system is completely irrelevant to such single server and means contained therein, and the Sec 103 rejection has no basis of support and hence should be reversed.

Subclaim 89 Directed to Method . Subject to our position that the method claim 94 has not been properly rejected and hence is allowed under the Rules, we are further discussing the method subclaims rejections to be complete in our argumentation.

"wherein one subscriber requests delivery of said medical images and comprises the further steps of requesting identifier information by said single server through said network from said one subscriber" (col. 7, lines 30-65)" The quoted part describes operation of the "physician computer 150" and the password system used. But, it does not set forth that the single server requests such identifier information through the network from the one subscriber seeking medical images. It is when the Examiner selects

which is the "single server" and which is the "plurality of subscribers" that it becomes clearer that our claim language is not shown or made obvious by the combined references Tipirneni and Barnes.

"reading medical images from said database; sending each medical image from said single server through said network to said one subscriber and display said medical images by said one subscriber" (col. 8, lines 31-62) This portion describes how "physician computer 150" accesses the server 110. But it is not applicable since that is not the "single server" as defined in our claim. Also, it is not "reading medical images from said database", which is part of the "single server". In Tipirneni, the storage is part of the "camera system". Thus, the Section 103 rejection of this method subclaim has no support and should be withdrawn.

Subclaim 90. "wherein said one subscriber requests through said network of said single server registration of said medical images and comprising the further steps of requesting imaging conditions by said single server to said one subscriber or by said one subscriber to said single server through said network" (col. 7, lines 5-17) The quoted part has to deal with "passwords and how to handle". There is nothing stated about "imaging conditions". Perhaps, the wrong portion was quoted. But, in any case, the Sec. 103 rejection has no support at this part of the reference. Thus, the Board should reverse the Examiner's rejection, and allow the claims and the entire case.

"sending said imaging conditions by said one subscriber to said single server through said network or by said single server to said one subscriber through said network" (col. 7, lines 5-17) As discussed with reference to the immediately above clause, clearly the "imaging conditions" are not discussed by this part of the reference, nor any point made as to which is the single server and subscriber of the plurality of subscribers. Clearly, there is not Sec. 103 support and the Board should reverse the Examiner's rejection.

"said single server registering said medical images according to imaging conditions in said database" which is a part of the single server. (col. 6, lines 12-37). The referred to part describes the "uploading system ", NOT the single server. Thus, the reference is not applicable at this point, and the Sec. 103 rejection is not supported and should be reversed.

Subclaim 91. "All the limitations of this claim have been noted in the rejection of claims 76 (we assume there is an error since there is no claim 76), 89 and 90 above". Since these have already been discussed, there is no further need for further discussion.

Subclaim 92. "wherein said single server further sends through said network to said one subscriber request for identification information and said one subscriber sends such identification information to said single server through said network, wherein said single server reads medical images from said database and processes said medical images prior to sending results thereof to said one subscriber through said network" (col. 7, line 31 to col. 8, line 62).

As above discussed, this portion of Tipirneni discusses the password and ID procedure. In terms of relevance, he does not show or make obvious the reading by the single server of medical images from said database and then processes the medical images prior to sending same to the subscriber through the network. There is nothing shown or made obvious by Tipirneni about the single server "processing" the medical images. Also, note that Tipirneni's "host server" does not perform the same functions as recited by the instant claims. Furthermore, such "host server" does not comprise the various means recited in the claims. Accordingly, the quoted parts taken in context do not teach or make obvious the instant invention of claim 92, and the rejection should be reversed and the claim allowed.

Summary and Conclusion

In view of the foregoing, clearly, the Section 103 rejection over Tipirneni and Barnes is without basis, and the rejection is without basis and should be reversed.

Accordingly, applicant prays that the Board reverse the Examiner completely and allow all of the claims and allow the application.

The Brief fee is authorized to be charged to the DA as per the separate paper. Also, an Oral Hearing will be requested in a timely manner.

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13 Jan 05

Respectfully

MOONRAY KOJIMA

CLAIMS ON APPEAL

Claims 1 - 76 (cancelled)

77.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise a hard copy device; and wherein at least one subscriber transmits format information including image identifier information to said hard copy device and through said network to said single server; and wherein said hard copy device receives from said single server through said network delivery of said medical images corresponding to said image identifier information and then provides a hard copy of said medical images.

78.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise a software executing subscriber running medical software for transmission through said network to said single server; and wherein said single server manages medical software and registers said medical software transmitted through said network by at least one subscriber in said data base and causes delivery of said medical software through said network to said software executing subscriber.

79.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise two or more subscribers, each connected to said network.

80.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise means for specifying types of image processing to be communicated through said network to said single server.

81. (previously presented) The system of claim 93, wherein said single server comprises means for informing at least one subscriber through said network of type of image processing to be applied.

82. (previously presented) The system of claim 93, wherein said single server comprises means for establishing communication through said network with at least one subscriber when image processing is completed; and means for transmitting through said network said medical images subjected to said image processing to said at least one subscriber.

83.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise means for transmitting through said network to said single server, a request for medical images subjected to image processing; and means for receiving said medical images from said single server through said network.

84.(previously presented) The system of claim 93, wherein said single server comprises means for storing each medical image in at least one form before image processing; and means for storing each medical image in at least one form after said image processing.

85. (previously presented) The system of claim 83, wherein said request is for only part or all of said medical images and wherein said part of all of said medical images are sent through said network to said plurality of subscribers.

86.(previously presented) The system of claim 93, wherein said single server comprises means for polling said plurality of subscribers through said network to collect medical images before image processing.

87. (previously presented) The system of claim 93, wherein said single server comprises means for sending through said network to a delivery destination imaging conditions for said medical images.

Claim 88. (cancelled)

89. (previously presented) The method of claim 94, wherein one subscriber requests delivery of said medical images; and comprises the further steps of:

requesting identifier information by said single server through said network from said one subscriber;

sending identifier information by said one subscriber to said single server through said network;

reading medical images from said data base in said single server;

sending each medical image from said single server through said network to said one subscriber; and

displaying said medical images by said one subscriber.

90. (previously presented) The method of claim 94, wherein one subscriber requests through said network of said single server registration of said medical images; and comprises the further steps of:

requesting imaging conditions by said single server to said one subscriber or by said one subscriber to said single server through said network;

sending said imaging conditions by said one subscriber to said single server through said network or by said single server to said subscriber through said network; and

said single server registering said medical images according to imaging conditions in said data base.

91. (previously presented) The method of claim 94, wherein one subscriber requests of said single server by signaling through said network processing of said medical image; and comprising the further steps of:

said single server processing said medical images;

said single server then sending results of processing through said network to said one subscriber; and

causing said one subscriber to display results of said processing of said medical images.

92.(previously presented) The method of claim 91, wherein said single server further sends through said network to said one subscriber request for identification information, and said one subscriber sends such identification information to said single server through said network; wherein said single server reads medical images from said data base and processes said medical images prior to sending results thereof to said one subscriber through said network.

93.(previously presented) A medical image servicing system comprising:

a network generally available to the public;

a plurality of subscribers having imaging devices for producing medical images and connected to said network for transmitting through said network said produced medical images for storage and for receiving through said network said stored medical images;

wherein each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said single server;

wherein said medical images are associated with at least one image selected from the group of imaging devices producing MRI, X-ray CT, Ultrasound, PET, digitalized X-ray and CR; and

said single server, being separate from and used commonly by said plurality of subscribers, and being connected to said network for servicing said plurality of subscribers upon signaling from said plurality of subscribers; said single server comprising:

a data base for storage of said medical images produced by said imaging devices for said plurality of subscriber and transmitted through said network upon signaling by said plurality of subscribers;

means for checking and verifying legitimacy of said

plurality of subscribers seeking to store said medical image in said data base of said single server or seeking to access said medical images stored in said data base of said single server;

means for registering in said data base said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network by ones of said plurality of subscribers having a registration contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy;

means for accessing in said data base said medical images registered therein by ones of said plurality of subscribers having an access contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy;

wherein said storing being equivalent to said registering of medical images in said data base;

means for compressing in data size said medical images when transmitted through said network and for decompressing in data size said medical images to original data size when received through said network by a subscriber seeking access; and

means for producing a backup of medical images registered in said data base.

94. (previously presented) A medical image servicing method utilizing a network generally available to the public, a plurality of subscribers connected to the network and a single server con-

nected to the network for commonly servicing the plurality of subscribers upon signaling thereby, wherein each of said plurality of subscribers has a registration contract entitling that subscriber to transmit medical images produced by an imaging device located in that subscriber through the network for registering in the single server and/or an access contract entitling that subscriber to receive medical images registered in said single server and transmitted through said network to that subscriber; the method comprising the steps of:

a subscriber having a registration contract signaling said single server through said network to transmit medical images produced by an imaging device of said subscriber through said network to be registered by said single server after said single server checks and verifies legitimacy of the request for registration of the medical images by that subscriber;

a subscriber having an access contract signaling said single server through said network to transmit medical images registered in said single server through said network to be received by said subscriber after said single server checks and verifies legitimacy of the request for access of the medical images by that subscriber;

compressing and decompressing data size of the medical images by the single server for registration and accessing; and

providing back-up for the medical images in the single server.

IN THE US PATENT OFFICE

EXAMINER -NGuyen

GROUP - 2161

SN - 09/900569

FILED - 7/5/01

BY - Ogino

Sirs:

Authorization is hereby give to Charge Deposit
Account No. 11-1500, for the Brief Fee of \$500.00. A duplicate
hereof is filed concurrently herewith.

Respectfully

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13 Jan 06

I hereby certify that the correspondence upon which
this notice is placed is being deposited with the US
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addressed to the Commissioner for Patents, Box 1450
Alexandria, VA 22313, or to US Trademark Office,
2800 Crystal Drive, Arlington, VA 22202, on the date
set forth below. MOONRAY KOJIMA, ATTORNEY

Date 1/13/06 (signed) 

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BOARD OF PATENT APPEALS
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Technology Center 2100

BEFORE THE BOARD OF APPEALS
IN THE US PATENT OFFICE

EXAMINER - Nguyen

GROUP - 2161

SN - 09/900569

FILED - 7/5/01

BY - Ogino

Sirs:

This Brief is in support of the Appeal filed 11/28/05 of the Examiner's Final Rejection of Claims 77-87 and 89-94 in the above application.

The Brief is filed in Triplicate together with the required Brief Fee of \$500.00, which is authorized to be charged to DA 11-1500 in a separate authorization filed in duplicate.

(1) STATUS OF CLAIMS

Claims 77-87 and 89-94, being all of the claims in the above application have been Finally Rejected and are now on Appeal. These claims were finally rejected on the following grounds:

Section 103, as being "unpatentable" over TIPIRNENI 6,381,029 in view of BARNES 6,912,317.

Claims 77-87 and 89-94, subject of the Appeal, are set forth in Appendix A-G, attached hereto.

(2) STATUS OF AMENDMENT AFTER FINAL REJECTION

None of the Amendments submitted after Final Rejection have been entered by the Examiner. Accordingly, the listed claims 77-87 and 89-94 listed in Appendix A-G and on Appeal do not contain

I hereby certify that the correspondence upon which this notice is placed is being deposited with the US Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, Box 1450 Alexandria, VA 22313, or to US Trademark Office, 2900 Crystal Drive, Arlington, VA 22202, on the date set forth below. MOONRAY KOUJMA, ATTORNEY

Date 11/13/06 (signed)

APPEAL BRIEF

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BOARD OF PATENT APPEALS
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any of the proposed amendments.

(2A) LIST OF CITED REFERENCES APPLIED IN FINAL REJECTION

(1) USP 6,381,029 issued on 4/30/02 to TRIPIRNENI

(2) USP 6,912,317 issued on 6/28/05 to BARNES

(3) SUMMARY OF THE INVENTION

The instant invention encompasses system (claims 93 and 77-87) and method (claims 94 and 89-92) of registering, storing and accessing medical images and information from a plurality of subscribers connected via a generally available network to a single server having a mechanism for checking the legitimacy, such as having a registration contract and/or accessing contract, of the subscriber before allowing the registration or accessing of the medical images and information. Each of the subscribers has a registration and/or accessing contract which entitles the registration holder to transmit and register medical images produced by that subscribers imaging device in the server and entitles the accessing contract holder to access the medical information in the server through the network. The single server comprises means for registering and storing the medical images and information and means for accessing such medical images and information and for transmitting same through the network to the subscriber at its request only after the legitimacy (e.g. subscriber having the registration and/or accessing contract) of the subscriber is checked.

For example, a subscriber, such as a doctor, located at a remote office can use his computer connected to the network, to

which the single server is connected, for registering or storing medical images and information by first entering a secure code (which is assigned to the holder of registration and/or accessing contract) which is checked by the server device for legitimacy, and requesting entry of the medical images and information. After checking legitimacy, the server allows entry into the system and recording of the medical images and information provided by the subscriber.

In a similar reverse manner, upon entry of the authorization code and request, the doctor can obtain access to any authorized medical image and information through his remote computer connected via the network to the single server. The server first checks the validity and legitimacy, such as whether the subscriber has a registration contract and/or access contract, of the subscriber and request, and then, if authorized, transmits the desired images and information.

Advantageously, a single protocol is used by all of the subscribers for entry to record and to access. In other words, the entire system is "unified", that is the subscribers, network and server are integrated as one system. Thus, efficiency, reliability and simplicity are considerably improved. Also, the costs of storage and accessing of medical images and information for a wide range of users from patients, doctors and hospitals to others is greatly reduced. Also, medical care quality is greatly improved because of the ready access to medical images and information by all these parties. Also, this is possible regardless of where

these parties are located provided they can be connected to a "generally available networkd, such as the Internet, to which the "single server" is connected, and to which the "plurality of subscribers " are also connected.

Before our invention, each hospital, doctor, etc, had its own library in which it placed medical images and information. Thus, only if a party were accredited to that hospital, etc, could he store or access the stored medical images and information. There was no system which incorporated a single server connected to a network, which was "generally available" to the public, to which an unrelated subscriber could be connected for storage and accessing of medical images and information using a single protocol. All the unrelated subscribed need do was enter a "registration contract and/or accessing contract" with the system provider. He then became part of the single protocol. On the other hand, we have made that jump by having that registration contract and/or accessing contract and means for checking the legitimacy of the subscriber prior to storing or accessing. This is further made advantageous by causing all of the plurality of subscribers to use a single protocol.

Accordingly, an important feature is that "each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said

single server". Also, an important feature is "means for checking and verifying legitimacy of a subscriber seeking to access desired medical images and information by signaling through the network".

Thus, we are able to control the storage and accessing of medical images and information, such as those sent by a subscriber having "registration contract and/or access contract", at a single location, that is at the "single server", which is available through "a generally available network" to a "plurality of subscribers".

On the other hand, a stranger, i.e. without a registration and/or access contract and assigned code, would be unable to invade the "single server" or central control system used therein, to "steal" or "identify" any concerned individual or information thereof. In other words, an unauthorized third party could not "steal" any medical images or information.

Also, we thus have in the central control system "means for processing and delivering said medical images and information through said network to said subscriber seeking access after checking and verifying legitimacy of the subscriber to the desired medical images and information". Moreover, in our system we include in the "single server", mechanism for "compressing" and "decompressing" the information data sent through the network. This allows for large scale storage of data from the plurality of subscribers using only a "single server" connected to the "network" available to the "plurality of subscribers". Also, we have in

the single server a backup system for the medical images and information which are registered in the data base. In this manner, safety, reliability and permanance are realized.

Other features and greater details are covered by the subclaims and will be discussed further under the heading "Arguments".

(4) ISSUES

The sole issue on appeal is: "Is the invention recited in claims 77-87 and 89-94 made obvious under Sec. 103 by a combination of TIPIRNENI 6,381,029 in view of BARNES 6,912,317.

(4A) APPLICANT'S POSITION

It is Applicant's position that the invention recited in claims 77-87 and 89-94 is NOT (NEGATIVE) made obvious by any combination of TIIRNENI and BARNES; and furthermore, that all of such claims are allowable as reciting an invention which meets all the statutory requirements for patentability.

(5) GROUP OF CLAIMS

There is only one group of claims. Main Claim 93 and subclaims 77-87 depended from main claim 93 are directed to a system/apparatus. Main claim 94 and subclaims 89-92 depended from main claim 94 are directed to a method.

Pursuant to the Rules on Grouping of Claims, Applicant hereby states that the claims of the above group does not stand or fall together. In the "Arguments" portion ehreof, each and every claim will be discussed and arguments presented as to patentability.

(6) ARGUMENTS

In the following discussion, Applicant will first present

argumentation as to the main claims 93 and 94, which are similar except one (93) is directed to the system/apparatus and the other(94) is directed to the method. The arguments will then be directed to each claim and the contentions of the Examiner.

CLAIMS 77-87 and 89-94 REJECTIONS UNDER SEC. 103 WITHOUT BASIS CLAIMS ARE ALLOWABLE.

There two main claims 93 (directed to system) and 94 (directed to method). The remaining claims are sub-claims. Each of the sub-claims, and the Examiner's comments directed thereto, will be set forth hereinbelow.

MAIN CLAIM 94 DIRECTED TO METHOD

Although the Examiner has alleged "claims 77-87 and 89-94 stand rejected under 35 USC 103(a) as being unpatentable over Tipirneni (6,381,029) in view of Barnes (6,912,317)" there is not one word of her specific reasons or ground for such rejection of the method claim 94. The same applies to the sub-claims 89-92 which depend from claim 94. The specific comments are directed to the specific wording of the system claim 93 and its sub-claims. There is no discussion of the specific method steps or wording thereof of main claim 94 and sub-claims 89-92.

This is in complete disregard for the requirements of MPEP 706.02(j) which requires that the Examiner in a Sec. 103 rejection set forth in the office action..."(A) the relevant teaching of the prior art relied upon, preferably with reference to the relevant column or page number (s) and line number(s) where appropriate.."

The only reference in the office Action to claim 94 was namely "Regarding claims 93 and 94... Tipirneni discloses... with everything set forth being directed only to the wording of the systems claim 93. There is not one word directed to the method steps of claim 94.

Clearly, the comments directed only to the systems claims 93 and 77- 87 are not (negative) necessarily applicable to the method steps of method claims 94 and 89-92. Hence, it is clear that the Examiner's lack of grounds for rejection does not support any rejection under Sec. 103.

In other words, the Examiner has not legally and factually supported her rejection of main claim 94 (and also sub-claims 89-92 dependent therefrom) in the MANNER REQUIRED BY THE MPEP.

Thus, Applicant's due process rights have been violated, and these method claims 93 and 89-92 were not validly rejected. The Examiner's actions are ARBITRARY AND CAPRICIOUS.

Accordingly, method claims 94 and 89-92 should be allowed, and such allowance is respectfully requested of the Board.

However, without prejudicing our position, to be completely responsive in the Appeal, applicant will incorporate in the arguments merits of method claims 94 and 89-92 when discussing the merits of system claims 93 and 77-87.

MAIN CLAIM 93 DIRECTED TO SYSTEM

To set the stage for the arguments, we will first discuss

generally the invention, references and main claim 93. Then, we will discuss the specific allegations set forth by the Examiner.

General Comments and Argumentation

Briefly, our invention encompasses "medical image servicing system (claim 93 et al) and "method" (claim 94 et al) comprising "a single server" at one location connected to a "network generally available to the public", such as the Internet, and to a "plurality of subscribers" located remotely thereof and being "commonly" thereto. The "single server" has "a data base", and "means for checking and verifying legitimacy of a subscriber seeking" seeking "registration" and/or "access. The "single server also comprises "means for registering in said data base medical images", and "means for processing and delivering medical images after verifying the legitimacy (e.g. holder of registration contract and/or access contract) of the subscriber.

We further recite that "each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through the network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images storedf in said single server".

The medical images and information, subscriber ID, instructions on processing, etc, can be sent from the subscriber through the internet to the single server, which is commonly accessible

to the plurality of subscribers, and upon verification of the legitimacy of the subscriber and request, the subscriber can send the medical images and information for registration, storage and/or processing to the "single server". Similarly, the request can be made for the delivery of the medical image or information or processed images and information from the "data base" and "single server" through the "network" to the "subscriber".

Advantageously, our invention enables increased availability of medical services throughout the USA at very low cost. All a doctor, for example in Wyoming, has to have is a computer in his office, to store, process and access medical images and information through out invention. He can also have an imaging device in his office and the medical images therefrom can be registered and stored with the "single server" at the remote location, such as in NYC. The remote doctor does not need to have any expensive equipment to store and process the medical information, since processing can be done at the "single server" side with equipment contained at the "single server" location. He does not have to use different protocols for different hospitals, libraries, etc to register, store and process and access various medical images and data. It will be like one person having a huge and expensive "back office", without the expensive cost of same. Because of our invention, cost of medicine is rapidly decreasing and effectiveness is increasing.

Other features of the invention include in the "single server" "means for compressing" and "means for decompressing" data. Thus, the invention provides greater storage capacity and increased transmission capacity, thus lowering cost further.

Also, our invention includes "means for providing backup..." Thus, safe permanent storage is assured by our invention.

The Examiner alleges that TIPIRNENI teaches all of the elements of our invention as recited in main claims 93,94, except for the "decompression" of data, which she alleges is taught by Barnes, and that therefore, under Sec 103, the invention as recited in claims 77-87 and 89 -94 are "unpatentable" since the invention recited in such claims would be "obvious" by the combination of the cited references Tipirneni and Barnes.

Applicant strongly disagrees with the Examiner. First of all Tipirneni does NOT teach or make obvious all of the elements of our invention, including the structural feature and the operational features thereof, as recited in the rejected claims. Moreover, the "decompression" step per se is not being claimed by us to be novel in itself. What we are asserting is that the combination of structural features and operational features in the manner recited in our claims is not taught by nor made obvious by the combined references Tipirneni and Barnes.

The following elements of claims 93 and 94 are not taught by nor made obvious by Tipirneni and/or Barnes singly or in combination and in the structural and operational combinations set forth in the claims. Please note, we are not claiming each element to be patentable and/or novel when considered separately, as the Examiner seems to believe. It is the combination of components and functions which make up our invention... and it is the combination which the cited references do not teach or make obvious.

(1) we recite "a plurality of subscribers" connected to the "network". If a physician is to be considered the subscriber, then, Tipirneni shows only one subscriber. This is separate from the camera 10 and uploading system 50.

(2) "each" subscriber has a "registrate contract and/or access contract" which enables him to transmit the medical image through the network for registration or request access to the registered data.

(3) "a single server" connected to the network, which comprises the following components...

(4) "data base"

(5) "means for checking and verifying legitimacy of a subscriber" that has a register and/or access contract.

(6) "means for processing and delivering said medical images and information through said network to said subscriber seeking access after checking and verifying legitimacy of said subscriber to said desired medical images and information".

(7) "means for registering in said data base medical images and information transmitted through said network by siad at least one subscriber"

(8) "means for compressing" and "decompressing" data, and

(9) "means for producing backup".

General Discussion of TIPIRNENI the Primary Reference.

Tipirneni's system (FIG. 1) comprises internet 100, to which are connected Physician computer 150, host server 110, and upload system 50 to which is connected camera system 10. FIG. 2 details contents of camera system 10 (NOT, as seemingly alleged by the

Examiner details of server 110). FIG. 3 shows details of the upload system 50. FIG. 9 shows flow diagram of the uploading process. None of the other figures are discussed by the Examiner.

Storing of images from camera 10 is done using the upload system 50 which is connected through the internet 100 to host server 110.

Accessing is done (with appropriate password checking) by computer 150 through the internet 100 to the host server 110.

That is completely different from applicant's invention which has a "plurality of subscribers" which can itself produce medical images and information, which is sent through the "network" by the authorized subscriber for registration in the "single server" "data base", and then accessed by the authorized subscriber through the "network" from the "single server".

In other words, for a "plurality of subscribers" "each of which has an imaging device" "for producing medical images and information, using a common single protocol, the "medical images and information" can be sent through the network by that subscriber for registration in the "single server" "data base", and then that or other subscriber can access the "registered" "medical images and information" through the "network". Look at our invention this way. Our invention provides a library, such as in NYC, which is connected through the "network" to a "plurality of subscribers" each of which having a "registration and/or access contract" can use that library for registration or storage of medical information and information which the subscriber can originate and then have access to that medical images and information stored in

"data base" of the "single server". Appropriate means are provided in the instant invention so that the appropriate contracts and ID can be checked and verified prior to allowing for registration and/or access. Advantageously, a single processing protocol can be used by all of the "plurality of subscribers" to obtain registration and/or access. Advantageously, the subscriber can be located a distance from the single server, such as in Montana with the server being in NYC. Thus, a unified single library is now available with our invention to greatly expand data base analysis for research and usage.

In contrast, Tipirneni's host server provides a "webpage" for the material sent by the "camera system 10" which is separate from the "physician's computer 150". There is nowhere shown or made obvious by Tipirneni, a "plurality of subscribers" wherein each has an "imaging device" for providing "medical information" for "registration" in the "single server" and for "access" therefrom through the "network". Moreover, there is nowhere shown any hint of the requirement of a "registration contract and/or access contract" to enable the holder to "register" and/or "access" such images and information, as required in our recited invention.

The physician's computer only obtains the "webpage" provided by the server. There is no provision for the physician to "register" and/or "access" medical images which he himself generates with an "imaging device" that he himself has. The camera system 10 is completely separate from the "physician computer 150".

Thus, even if Tipirneni were extended, he would still not show or make obvious our recited invention. There is no teaching which can be extended to make obvious a "plurality of subscriber" "each having a registration contract and/or access contract" which enables him to transmit through the network medical images to be registred and then he or others having the access contract and authorized to access that registered medical images" EEach subscriber has an "imaging device". Thus, for example, a doctor in Wyoming can produce medical images himself and then have same registered/stored in the "data base" of the "single server" "connected to the network" which can be located for example in NYC. He or other authorized subscriber can then access such registered medical information through the "network". There is nothing in Tipirneni to teach such plurality of subscribers which has an imaging device and then which can transmit medical information through the network for registration/storage and then access.

All that Tipirneni teaches is that a camera system can store some image (in its own storage... not in the server) and then upload into the host server as a webpage, which can then by received by an authorized computer.

The Examiner has taken separate functions and without any teaching by the art, combined same and then reached the conclusion that such was obvious. It is only the Examiner's arbitrary and capricious prejudgment which is used to reject the instant invention. There is no reasonable application of the facts and law to the rejection. The Board should reverse the Examiner.

Clearly, Pipirneni does not make obvious under 103 the instantly claimed invention of claims 77-87 and 89-94.

General Discussion of Barnes, the secondary reference

Barnes was cited to show means for decompressing data size to original data size (col. 3, lines 14-35) and means for producing a backup (col. 3, lines 36-57). Clearly, Barnes has no relation to the instant invention. All Barnes teaches is a generalized teaching of decompression of data size and a backup. But, since Tipirneni does not teach or make obvious any of the other elements of the recited claims 77-87 and 89-94, even if combined, our invention would still not be taught or made obvious by the combination of Tipirneni and Barnes.

In FIG. 10, a PAC 10 comprises a file server 18 which receives and processes image data and makes same available for decompression. Also, PAC 10 comprises an archive 30 which serves as a backup.

Insofar as relevant, Barnes merely teaches a decompression technique based on information encoded in an image data file. A decompression portion is provided in code appended to the image, which is then operated on to provide the compression or decompression.

However, nothing is shown or made obvious of our recited "plurality of subscribers using the internet to register and/or access the medical images in a single server."

We are not asserting that "decompression of data" or "backup" per se are novel. It is the invention as expressed by the totality of the different structural and operations recited in the claims that we are asserting as novel and patentable. That is not shown

or made obvious by the references Tipirneni and/or Barnes whether considered singly or in combination.

Accordingly, clearly, the claims 77-87, and 89-94 are novel and patentable under 103 and the combined references are clearly lacking in evidential value. They do not support the Sec. 103 rejection and the Board should therefore reverse the Examiner.

Specific Allegations Regarding Claims 77-87, and 89-94
and Applicant's Response

The Examiner has (1) set forth each (except one) clause of the claims and then (2) set forth the specification parts of the references relied upon to show the clause. HOWEVER, that is not sufficient under the MPEP, nor the rules governing due process necessary to avoid the Applicant's being subjected to arbitrary and capricious action by a governmental official. This is because the Examiner has not (negative) in any logical manner connected up the reference teachings to the invention. The Examiner's rejection lacks coherence, relativity and substance. This is despite the Applicant bending over backward to explain our invention and the prior art. It seems that the Examiner had since she was assigned the case in 2001, prejudged the case and that all the subsequent actions on her part were to merely support her prejudgment.

The Board should be aware that Applicant already appealed once because of the arbitrary manner in which the examination was first handled. Since it appeared that another Examiner had then sent us another office action, we withdrew the appeal. But, somehow, the same Examiner again reappeared with the same type of arbitrariness.

We only seek the examination every applicant is entitled to, that is namey, for this appeal brief a third party Examiner consider

de novo the rejections.

What seems to be the case is this: The Examiner alleges that our claims recite A,B,C, etc; that reference Tipirneni specifically show A,B, etc; and that therefore combined with Barnes which shows C, the invention is made obvious, under Sec. 103.

The Examiner has not made a proper rejection. First, it is the totality of the claim, that is the combination of elements in the claim which must be considered... not.. whether each element is shown. Our claims connect up the different elements thereof to produce a new result. NOWHERE DOES SHE DISCUSS OR EVEN HINT AT DISCUSSING, WHAT IS OUR INVENTION WHEN ALL OF THE ELEMENTS OF THE CLAIM ARE CONNECTED TOGETHER AND THE RESULTS THEREOF.

Second, even the specific wording of the claims are not rejected in the proper manner or lack thereof accounted for. For example, we recite "registration contract and/or access contract" which enables the holder thereof to "register" and/or "access" . Where is that type of contract holding discussed. Also, in each "subscriber" there is claimed "imaging device". But, nowhere in any of the references is this shown, much less discussed by the Examiner. Another example is which of the "camera system 10" or "physician computer" is the "plurality of subscriber". There are so many deficiencies to this rejection, that it is difficult to list them all. But, we shall try in this Appeal Board Brief, so that the Applicant will receive that which he is due, a patent on its invention.

We now set forth each and every allegation with our argument.

(1) The Examiner alleges "Regarding claims 93 and 94, Tipirneni discloses a network generally available to the public (100, Fig.)"

Although Tipirneni shows "internet 100", it is not in the same context as in Applicant's recited invention. The only evidential value to Examiner's comments is that the "internet" is a known fact. But, as discussed below, the interconnection of the other parts of our recited invention are not shown or made obvious by Tipirneni.

(2) "a plurality of subscribers having imaging devices for producing medical images and connected to said network for transmitting through said network said produced medical images for storage"(col. e, line 7-62 and col. 6, lines 58 to col. 7 lines 7)

Regarding col. 3, lines 7-62, this refers to Figs. 1 and 2 (which discusses camera system 10) Thus, Figs. 1 and 2 do NOT show "a plurality of subscribers". The Examiner can contend that either camera 10 or computer 150 can be the "plurality of subscribers", but, not both. Thus, there is no "plurality of subscribers" shown or made obvious by Tipirneni. Also, camera 10 comprises in FIG. 2 a camera 12, digitizer 14, storage 16 connected to uploader 50. There is no "imaging device" in the "plurality of subscribers", as recited in our claims 93,94.

Thus, on this point, the Examiner is in FACTUAL ERROR. The Examiner does not seem to have carefully read the wording of this clause, nor has she carefully studied the reference Tipirneni. Unfortunately, she has not set forth her reasoning or analysis of the claim wording or of the reference teaching at this point.

Regarding col. 6, lines 58-col. 7, line 7 discusses system 5 of Fig. 1, and a password protection on multiple levels. It has no relevance to the quoted portion of claim 93, as above recited.

We are totally confused as to the relevance. We suspect the Examiner has merely thrown in this citation to give the semblance of reasonableness of rejection. But, factually, "password protection" has nothing to do with the claim.

Our system (and method) differs from Tipirneni in that we have a plurality of subscribers each connected to the network and a single server also connected to the network, with each subscriber having an imaging device for producing medical images which can be transmitted for storage in the server through a network. The subscriber has a contract for registration and/or accessing.

In contrast, Fig. 1 of Tipirneni shows one physician computer 150, one server 110, and separate from the physician computer 150 a camera 10 and uploading system 50, all of which are connected to the internet in the manner shown in Fig. 1. The computer 150 does not have camera 10 and uploader 50, or vice versa.

Thus, the Tipirneni system is completely different from and cannot be extended to make obvious our recited invention. The structural details and the operational details are completely different from and not made obvious by Tipirneni.

(3) "wherein each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the

subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said single server" (col. 6, line 58 to col. 7, line 7)

As above discussed this part of the reference discusses a "password protection on multiple levels". There is a passage stating that the operator may provide "temporary or permanent password" which entitles the user to become a temporary or permanent facility user. But, there is no disclosure of a subscriber having a "registration and/or access contract" which entitles the holder to register and/or access the medical information stored in the server after transmittal through the network.

But, note that Tipirneni refers only to "limit access to the webpage created by uploader system 50". In other words, in our invention, the subscriber can transmit its own image device obtained medical images through the network to the single server for registration and/or processing, provided he has a "registration contract". Also, with an access contract, he can then access such medical images.

In contrast, Tipirneni uploads images from camera 10 using uploader 50 and sends same through the internet to the host server. Then, a separate physician can read a webpage of the server containing the image sent by camera 10. It is not the physician that obtain the medical image or sent same through the internet.

It can thus be seen that our invention is completely different from and not made obvious by Tipirneni. Our combination of claims

elements and operations is clearly not shown or made obvious by Tipirneni.

(4) "wherein said medical images associated with at least one image selected from the group of imaging devices producing MRI, X-ray CT, ultrasound, PET, digitalized X-ray and CR" (col. 3 lins 37-62).

We are not asserting that these imaging devices are novel or patentable per se. However, in the combination recited in claims 93 and 94, it is the combination which is novel and unobvious and hence deserving of a patent.

Note, that our imaging device is provided within each subscriber which then provides the medical images which are then sent via the network to the single server for registration.

In contrast, camera 10 sends its images to the uploading system for storage and then uploading of the images to the host server for transcription onto a webpage. Careful reading of Tipirneni will show that his disclosure is nowhere close to our recited invention, nor made obvious thereby.

(5) "said single server, being separate from and used commonly by said plurality of subscribers, and being connected to said network for servicing said plurality of subscribers upon signalling from said plurality of subscribers" (100, 50, 150, 110, fig. 1)
"said single server comprising a database for storage of said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network upon signaling by said plurality of subscribers" (16, fig. 2).

The Examiner errors FACTUALLY. The "host server 110" is the

only server shown. It is connected to internet 100 and serves single physician computer 150. The cited item 100 is the internet, item 50 is the uploading system, item 150 is the physician computer, and item 110 is the host server. Thus, except for server 110 connected to internet 100, the Examiner is in complete error. Facts are facts and cannot be changed by wishful thinking or by an assertion of their being that which they are not.

Also, Fig. 2 shows details of camera system 10. It is NOT detailing of host server 110. Item 16 of Fig. 2 is a "storage" inside of camera system 10. It is not located within the server. It is also connected to the uploader 50.

Thus, the image from camera 10 is stored in the storage thereof and not stored within the data base of the single server as in our invention. So, a fair reading of Tipirneni will show that the images from the camera are stored in the storage thereof and then through the uploader 50 cause to be placed on a webpage for distribution by the server 110.

This is clearly not the same as nor could it make obvious the registration and accessing methods used in our recited invention. There is no similarity which can be extended to make obvious our invention. In point of fact, any extension of Tipirneni would still not show or make obvious our recited invention, regardless of whether the Barnes contribution of decompression and backup are added.

(5A) The Examiner does not mention the clause "a data base for storage of said medical images produced by said imaging devices

of said plurality of subscribers and transmitted through said network upon signaling by said plurality of subscribers".

According to the Rules, we can then assume that the Examiner concedes there is no such component shown in the prior art in the combination recited.

Thus, the Board should reverse the Examiner's rejection since the rejection is fatally defective on its face.

(6) "means for checking and verifying legitimacy of said plurality of subscribers seeking to store said medical image in said database of said single server or seeking to access said medical images stored in said data base of said single server" (col 6, lines 12-38)

The quoted part refers to Figs 3 and 9. Fig 3 is a "diagram of the uploading system in more detail". Fig. 9 is a "flow diagram of the process for uploading images from the uploading system to the host server".

Thus, clearly, the components shown in Figs 3 and 9 are NOT part of the recited "single server" of the instant invention. Note, our claim 93 refers to the "means for checking..." as being a component of the "single server". Tipirneni shows these as being part and parcel of the "uploading system 50" and NOT as a part of the host server 110.

Accordingly, in point of FACT, col. 6, lines 12-38 does not meet the wording above recited in this clause of the claims.

Moreover, note that we check and verify whether the subscriber is entitled to register and/or access the registered medical data

and information depending on the subscriber's contract.

(7)"means for registering in said data base said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network by ones of said plurality of subscribers having a registration contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy" (col. 7, lines 30-65)

Again, there is factual error. There is no data base in the host server 110 of Tipirneni. Also, the Examiner has not cited or offered in comments on lack of data base in any part of the office action. Moreover, Tipirneni does not produce medical images from imaging devices belonging to the subscriber. Also, Tipirneni has nothing to do with "registration and/or access contract". Also, there are no "means for registering" shown in "host server 110".

Thus, clearly, this clause is not shown by nor made obvious by the Tipirneni disclosure. The Board should reverse the Examiner.

(8) "means for accessing in said data base said medical images registered therein by ones of said plurality of subscribers having an access contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy"(col. 8, lines 31-62).

This means is not shown by Tipirneni, since he has separate "uploader" and "camera" and does not have "a plurality of subscribers" each having an "imaging device" and a "register contract and or access contract". Tipirneni has a computer 150" which accesses a "webpage" from the host server through the internet. The webpage

is produced by the uploading system and sent to the host server for distribution through the internet to the physician's computer 150.

Clearly, this recited clause is not shown by nor made obvious by Tipirnenialone or in combination with Barnes. The Board now has ample reason for reversing the Examiner and should do so.

(9) "wherein said storing being equivalent to said registering of medical images in said data base" (col. 5, lines 10-34) and "means for compressing in data size said medical images when transmitted through said network (col. 5, lines 10-34).

The language regarding "storing" and "registering" was intended to forestall any objection to such alternate uses.

The col. 5, lines 10-34 merely states that compression techniques are known. We are not asserting that such compression is novel or patentable by itself. Our claims recite such compression together with the other components of the claims which combination of structure and functions, we are asserting to be novel and patentable.

(10) The examiner alleges that Tipirneni does not show decompression nor means for backup, but that Barnes shows decompression and backup, and that combining these two references would thus make applicant's invention obvious under Sec. 103 and therefore unpatentable. This is stated at page 4, lines 3-page 5, line 2 of the OA mailed 9/13/05.

Applicant respectfully disagrees with the Examiner. First, Tipirneni does not show or make obvious all of the recited elements of applicant's main claims 93, 94, except for the Examiner's decompression step and backup. We have set forth the reasons for

disagreeing with the Examiner in the above. As to Barnes, the Examiner has cited col. 3, lines 14-35 and Col.3, liens 36-57 as showing means for decompression and backup respectively.

But, as discussed we are not asserting that "decompression" and "backup" are per se novel. What we are asserting as being novel and unobvious, is the combination of elements in the main claims 93 and 94. Clearly, the combination of Tipirneni and Barne do not show such combination of elements, nor make same obvious.

Tipirneni as above set forth has only a camera system and uploader connected to the internet, to which are respectively connected a host server and a physician's computer. That is nowhere close to our plurality of subscribers, each having an imaging device which produces medical images which can be transmitted to the singler server for registration using the network, and then accessing the stored medical images using the network, provided that subscriber has a registration contract and/or access contract.

Tipirneni has the camera system and uploader separate from the physician computer. In point of fact, careful reading of the disclosure shows that the images are stored in the camera system and then uploaded for placement on a webpage, which then is accessed by the separate computer.

Adding the decompression and backup means, does not add anything relevant to the Tipirneni disclosure vis-a-vis our recited invention. Accordingly, the Sec. 103 rejection of the main claim 93 and 94 is clearly without merit and should be reversed by the Board.

To repeat again, the due process mandated by the Law has not

been accorded applicant in that the Examiner rejects main claims 93 and 94, but does not support such rejection as to method claim 94. NOT ONE WORD ,EXCEPT RECITING OF 94, IS DIRECTED TO THE WORDING OF CLAIM 94 NOR ANY DISCUSSION OF HOW TIPIRNENI WOULD SUPPORT SUCH REJECTION. (See page 2, line 8 from bottom through page 5, line 2 of Office Action of 9/13/05).

Therefore, the Board should consider that Method claims 94 and 89-92 which depend therefrom are allowed since there is no recitation or discussion of the wording of claim 94 (and 89-92) nor any recitation or discussion of particular parts of the cited references would support such rejection. Such allowance is respectfully solicited.

Subclaims 77-87 and 89-92 Rejections not supported
By Facts; Claims are allowable

Subclaims 77-87 and 89-92 were also rejected under Sec. 103 as being unpatentable over Tipirneni in view of Barnes. Applicant respectfully traverses such rejections as being without foundation. No combination of the cited reference teaches or makes obvious the recited invention of sub-claims 77-87 and 89-92.

It is to be understood that the below arguments direct to the subclaims are in addition to the arguments set forth with respect to the main claims 93 and 94 from which these subclaims depend, and that all such arguments are to be considered part and parcel hereof by reference, and are to be considered to be repeated hereat.

In addition, it is to be understood that even though the sub-claims 77-87 and 89-92 are subclaims, the subject matter thereof in each subclaim is patentable above and beyond the subject matter of the main claims 93 and 94 from which the sub-claims depend. Thus, each claim will be considered to stand on its own for patentability.

Each of the claims 77-87 and 89-92 will now be discussed. It is noted that the Examiner has only repeated the wording of each subclaim and set forth the particular part of Tipirneni relied upon for the rejection, in the same manner as rejection of the main claims. This again necessitates our reciting again the wording of each subclaim. But, the Examiner does not apply and discuss specifically how the recited part of the reference applies to the rejection. It is as though the Examiner throws a ball and says to applicant catch it and tell me about it. That is not only unreasonable, but, arbitrary and capricious. Especially when we've discussed same in detail priorly... but, the Examiner has never countered our arguments. This is not an examination and prosecution. It is prejudgment and arbitrary rejection based on her prejudgment.

Subclaim 77. "...all the limitations of this claim have been noted in the rejection of claim 93 above" We are not quite sure what the Examiner means, except that we assume she means that all of the subject matter of the main claim have already been discussed and will not be repeated hereat. Similar wording is set forth in the rejection of the other subclaims, and will not be

repeated for sake of convenience and needless repetition.

The Examiner then states "In addition tipirneni/Barnes.." He then only refers to Tipirneni, in the specific parts of the reference relied upon for support of the rejection. Thus, we will not make reference to Barnes since the Examiner does not refer to any specific parts of Barnes. It will thus be assumed that reference to a specific part of the reference refers to Tipirneni, in the following discussion of all the subclaims.

"wherein said plurality of subscribers comprises a hard copy device"(100 of Fig. 1) . Item "100" is the "internet". Thus the Examiner errs factually. But, he is in error also because Tipirneni has no "plurality of subscribers" as above discussed. Also, if the Examiner is refering to item 10, the camera system, that is not a "hard copy" device. The camera takes images , stores same, and then using the uploader system uploads the images to the webpage in server 110.

"wherein said at least one subscriber transmits format information including image identifier information to said hard copy device, wherein hard copy device receives delivery information through said images corresponding to said image identifier information through said network and the provides a hard copy of said medical images" (col. 3, line 63-col. 4 line15).

The quoted part refers to Fig. 2 and the operation of the camera system 10, wherein the camera 12 sends images to digitizer 14, and then image storage 16, and then for uploading by system 50. There is nothing about "format information" "image identifier information" "hard copy devicer". The Examiner is again in FACTUAL

error, and there is no LEGAL BASIS for the Sec. 103 rejection of Claim 77, and the Board is asked to reverse the Examiner on this point.

Subclaim 78. "wherein said plurality of subscribers comprise a software executing subscriber running medical software for transmission through said network to said single server" (col 4, lines 16-42). This portion refers to the "uploader system 50," and software used therein. It does not refer to refer to "running medical software for TRANSMISSION THROUGH SAID NETWORK TO SAID SINGLE SERVER". There is a difference between using the software (as done by the uploading system of Tipirneni), and sending software through the network to the single server. It seems that the Examiner does not appreciate this difference. In any case, there is no support in Tipirneni to make obvious this feature of claim 78, and hence the claim is believed allowable.

"wherein said single server manages medical software and registers said medical software transmitted through said network by said at least one subscriber in said database and causes delivery of said medical software through said network to said software executing subscriber" (col. 6, lines 12-38). Fig. 3 refers to the "uploading system 50", and Fig. 9 refers to the flow diagram thereof.

There is no connection between our recited "single server" which manages the "medical software", and the "uploader system 50" of Tipirneni. Apparently, the Examiner has not carefully read and understood what exactly he is showing and doing. The rejection basis is so far off, that our legitimate conclusion is that

the Examiner has prejudged the case and is arbitrarily shoe-horning Tipirneni teaching to fit that prejudgment, regardless of what the facts are. The board is asked to reverse here rejection of this and all the other claims.

Subclaim 79. "wherein said plurality of subscribers comprise two or more subscribers, each connected to said network" (100, 150, 50 of Fig. 1). The Examiner is wrong. Tipirneni does not show "a plurality of subscribers", nor "two more more" Item 100 is the "internet". Item 150 is the "physician computer". and item 50 is the "uploading system". If computer 150 is the subscriber, there is only one. If "uploader system 50" is the subscriber there is only one. Item 100 is the internet. If he refers to camera 10 (details shown in FIG. 2), then there is only one. Moreover, there is nothing in the cited reference which would be extended to to make obvious the claimed invention. Also, note uploader system 50 is shown in detail in fig. 3, but still it is only one.

Subclaim 80 "wherein said plurality of subscribers comprises means for specifying types of image processing to be communicated through said network to said single server" (col. 3, lines 38-63)

This part of the reference describes contents of the camera system 10. However, it does not comprise means for specifying types of image processing to be communicated through the network to the single server. Note where the image processing is done in our invention, the single server. The description of the camera system 10 describes what is done to the image in the camera system. Thus, there is no description in Tipirneni of the quoted part of our

claim and the Sec 103 rejection has no basis and should be reversed.

Subclaim 81 "wherein said single server comprises means for informing said at least one subscriber through said network of type of image processing to be applied." (110, fig. 1).

Item 110 in Fig. 1 is the "host server". But, we are claiming the "means for informing..." which is part "comprises" of the "single server". Insofar as we can tell after careful study of Tipirneni, "host server 110" does not have such a means. Thus, clearly, the Examiner has no asis for the rejection and her rejection should be reversed and the claim allowed.

Subclaim 82. "wherein said single server comprises means for establishing communication with said at least one subscriber when image processing is completed" (110, 100, 50, 150 fig. 1).

Item 110 is the "host server", Item 100 is the "internet" (Item 10 is the "camera system", Item 50 is the uploader system" and item 150 is the "physician computer". But, none of these item are equivalent to the instantly claimed "single server", nor are they "comprised within the single server", nor does such "server" comprise means for establishing communication with the subscriber when the image processing is completed. Thus, clearly, There is no teaching which would show or make obvious the quoted part of claim 82, and hence, the Sec. 103 rejection is without foundation and should be reversed.

Subclaim 83. "wherein said plurality of subscribers comprise means for transmitting through said network to said server, a request for medical images subjected to image processing" (col. 3,

lines 38-62). This portion of the cited reference discusses FIG. 2 and the details of the camera system 10. It does not describe the "plurality of subscribers", nor any means therein which transmits a request for images subjected to processing. Note, that this is a request transmitted from the subscriber through the network to the server. That is not done by the camera system 10. Thus, clearly, there is no support for the 103 rejection and the rejection should be reversed and the claim allowed.

"and means for receiving said medical image from said single server through said network" (col. 5, lins 10-34) This is a part of each of the "plurality of subscribers". Receiving of the web page is by "physician's computer". But, the "means for transmitting" is done by the "camera system 10 and uploader 50". Thus, the language of our claim is not met by any of the elements of Tipirneni. Thus, the Sec. 10 rejection as to this point also is unfounded. The rejection based on this point should be reversed.

Subclaim 84. "wherein said single server comprises means for storing each medical image in at least one form before image processing (as compressed) " (col 5, lines 10-34) The referred to part describes the "uploader system 50, not any "single server" or part thereof which is recited in our claim. Note the difference it is the uploading system (or camera system) which stores any camera image. IT IS NOT THE "SINGLE SERVER". Thus, this portion of our claim is not shown or made obvious by Tipirneni. Accordingly, the Sec. 103 rejection is without basis and should be reversed.

"and means for storing each medical image in at least one form (decompressed) after said image processing" (col. 3, lines 14-35) This part describes the uploading system 50; not our "single ser-

ver". Thus, this element of our claim is not shown or made obvious by the reference, and the rejection should be reversed by the Board. The uploading system is not the "single server" of our invention.

Subclaim 85. "wherein said request is for only part or all of said medical image and wherein said part or all of said medical image are sent through said network to said plurality of subscribers" (col. 5, lins 10-34) Again, this part describes the "uploading system" and not the "single server " of claim 83. Also, we refer to "only part" of the "medical image". Careful reading of Tipirneni does not show any sending of only a part of the medical image through the network to the subscriber. The part of Tipirneni refers to the uploading system 50 but, even then, there is no discussion of sending only "part of" the image. Clearly, there is no support for this rejection.

Subclaim 86. "wherein said single server comprises means for polling said plurality of subscribers through said network to collect medical images before image processing" (col. 6, lins 12-3)

The referred to part describes Fig. 3 and 9, the uploading system and procedures used thereby. But.. there is not one word of any "means for polling"."before image processing". The Examiner is way off base on this point, and the rejection is without basis and should be withdrawn. The "uploading system" is not the same as our "single server" and therefore under no condition can it have any "means for polling", which it does not have under any condition. The rejection is without basis and should be withdrawn.

Subclaim 87. The Examiner mentions "Tanaka" but does not cite same. This is probably because the entire office action seem to be a computer run-off of the original first office action 4 years ago with only substitution of patentee's names. But, in any case, since Tanaka was not cited, we will not discuss same. The claim reads "wherein said single server comprises means for sending through said network to a delivery destination imaging conditions for said medical images "(col. 6, lines 12-38). This part refers to description of Figs. 3 and 9, which is the "uploading system 50". This has nothing to do with the instant "single server" nor "means for sending through the network to the delivery destination the imaging conditions, as recited in our claim. The uploading system is completely irrelevant to such single server and means contained therein, and the Sec 103 rejection has no basis of support and hence should be reversed.

Subclaim 89 Directed to Method . Subject to our position that the method claim 94 has not been properly rejected and hence is allowed under the Rules, we are further discussing the method sub-claims rejections to be complete in our argumentation.

"wherein one subscriber requests delivery of said medical images and comprises the further steps of requesting identifier information by said single server through said network from said one subscriber" (col. 7, lines 30-65)" The quoted part describes operation of the "physician computer 150" and the password system used. But, it does not set forth that the single server requests such identifier information through the network from the one subscriber seeking medical images. It is when the Examiner selects

which is the "single server" and which is the "plurality of subscribers" that it becomes clearer that our claim language is not shown or made obvious by the combined references Tipirneni and Barnes.

"reading medical images from said database; sending each medical image from said single server through said network to said one subscriber and display said medical images by said one subscriber" (col. 8, lines 31-62) This portion describes how "physician computer 150" accesses the server 110. But it is not applicable since that is not the "single server" as defined in our claim. Also, it is not "reading medical images from said database", which is part of the "single server". In Tipirneni, the storage is part of the "camera system". Thus, the Section 103 rejection of this method subclaim has no support and should be withdrawn.

Subclaim 90. "wherein said one subscriber requests through said network of said single server registration of said medical images and comprising the further steps of requesting imaging conditions by said single server to said one subscriber or by said one subscriber to said single server through said network" (col. 7, lines 5-17) The quoted part has to deal with "passwords and how to handle". There is nothing stated about "imaging conditions". Perhaps, the wrong portion was quoted. But, in any case, the Sec. 103 rejection has no support at this part of the reference. Thus, the Board should reverse the Examiner's rejection, and allow the claims and the entire case.

"sending said imaging conditions by said one subscriber to said single server through said network or by said single server to said one subscriber through said network" (col. 7, lines 5-17) As discussed with reference to the immediately above clause, clearly the "imaging conditions" are not discussed by this part of the reference, nor any point made as to which is the single server and subscriber of the plurality of subscribers. Clearly, there is not Sec. 103 support and the Board should reverse the Examiner's rejection.

"said single server registering said medical images according to imaging conditions in said database" which is a part of the single server. (col. 6, lines 12-37). The referred to part describes the "uploading system ", NOT the single server. Thus, the reference is not applicable at this point, and the Sec. 103 rejection is not supported and should be reversed.

Subclaim 91. "All the limitations of this claim have been noted in the rejection of claims 76 (we assume there is an error since there is no claim 76), 89 and 90 above". Since these have already been discussed, there is no further need for further discussion.

Subclaim 92. "wherein said single server further sends through said network to said one subscriber request for identification information and said one subscriber sends such identification information to said single server through said network, wherein said single server reads medical images from said database and processes said medical images prior to sending results thereof to said one subscriber through said network" (col. 7, line 31 to col. 8, line 62).

As above discussed, this portion of Tipirneni discusses the password and ID procedure. In terms of relevance, he does not show or make obvious the reading by the single server of medical images from said database and then processes the medical images prior to sending same to the subscriber through the network. There is nothing shown or made obvious by Tipirneni about the single server "processing" the medical images. Also, note that Tipirneni's "host server" does not perform the same functions as recited by the instant claims. Furthermore, such "host server" does not comprise the various means recited in the claims. Accordingly, the quoted parts taken in context do not teach or make obvious the instant invention of claim 92, and the rejection should be reversed and the claim allowed.

Summary and Conclusion

In view of the foregoing, clearly, the Section 103 rejection over Tipirneni and Barnes is without basis, and the rejection is without basis and should be reversed.

Accordingly, applicant prays that the Board reverse the Examiner completely and allow all of the claims and allow the application.

The Brief fee is authorized to be charged to the DA as per the separate paper. Also, an Oral Hearing will be requested in a timely manner.

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Respectfully

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CLAIMS ON APPEAL

Claims 1 - 76 (cancelled)

77.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise a hard copy device; and wherein at least one subscriber transmits format information including image identifier information to said hard copy device and through said network to said single server; and wherein said hard copy device receives from said single server through said network delivery of said medical images corresponding to said image identifier information and then provides a hard copy of said medical images.

78.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise a software executing subscriber running medical software for transmission through said network to said single server; and wherein said single server manages medical software and registers said medical software transmitted through said network by at least one subscriber in said data base and causes delivery of said medical software through said network to said software executing subscriber.

79.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise two or more subscribers, each connected to said network.

80.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise means for specifying types of image processing to be communicated through said network to said single server.

81. (previously presented) The system of claim 93, wherein said single server comprises means for informing at least one subscriber through said network of type of image processing to be applied.

82. (previously presented) The system of claim 93, wherein said single server comprises means for establishing communication through said network with at least one subscriber when image processing is completed; and means for transmitting through said network said medical images subjected to said image processing to said at least one subscriber.

83.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise means for transmitting through said network to said single server, a request for medical images subjected to image processing; and means for receiving said medical images from said single server through said network.

84.(previously presented) The system of claim 93, wherein said single server comprises means for storing each medical image in at least one form before image processing; and means for storing each medical image in at least one form after said image processing.

85. (previously presented) The system of claim 83, wherein said request is for only part or all of said medical images and wherein said part of all of said medical images are sent through said network to said plurality of subscribers.

86.(previously presented) The system of claim 93, wherein said single server comprises means for polling said plurality of subscribers through said network to collect medical images before image processing.

87. (previously presented) The system of claim 93, wherein said single server comprises means for sending through said network to a delivery destination imaging conditions for said medical images.

Claim 88. (cancelled)

89. (previously presented) The method of claim 94, wherein one subscriber requests delivery of said medical images; and comprises the further steps of:

requesting identifier information by said single server through said network from said one subscriber;

sending identifier information by said one subscriber to said single server through said network;

reading medical images from said data base in said single server;

sending each medical image from said single server through said network to said one subscriber; and

displaying said medical images by said one subscriber.

90. (previously presented) The method of claim 94, wherein one subscriber requests through said network of said single server registration of said medical images; and comprises the further steps of:

requesting imaging conditions by said single server to said one subscriber or by said one subscriber to said single server through said network;

sending said imaging conditions by said one subscriber to said single server through said network or by said single server to said subscriber through said network; and

said single server registering said medical images according to imaging conditions in said data base.

91. (previously presented) The method of claim 94, wherein one subscriber requests of said single server by signaling through said network processing of said medical image, and comprising the further steps of:

said single server processing said medical images;

said single server then sending results of processing through said network to said one subscriber; and

causing said one subscriber to display results of said processing of said medical images.

92.(previously presented) The method of claim 91, wherein said single server further sends through said network to said one subscriber request for identification information, and said one subscriber sends such identification information to said single server through said network; wherein said single server reads medical images from said data base and processes said medical images prior to sending results thereof to said one subscriber through said network.

93.(previously presented) A medical image servicing system comprising:

a network generally available to the public;

a plurality of subscribers having imaging devices for producing medical images and connected to said network for transmitting through said network said produced medical images for storage and for receiving through said network said stored medical images;

wherein each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said single server;

wherein said medical images are associated with at least one image selected from the group of imaging devices producing MRI, X-ray CT, Ultrasound, PET, digitalized X-ray and CR; and

said single server, being separate from and used commonly by said plurality of subscribers, and being connected to said network for servicing said plurality of subscribers upon signaling from said plurality of subscribers; said single server comprising:

a data base for storage of said medical images produced by said imaging devices for said plurality of subscriber and transmitted through said network upon signaling by said plurality of subscribers;

means for checking and verifying legitimacy of said

plurality of subscribers seeking to store said medical image in said data base of said single server or seeking to access said medical images stored in said data base of said single server;

means for registering in said data base said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network by ones of said plurality of subscribers having a registration contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy;

means for accessing in said data base said medical images registered therein by ones of said plurality of subscribers having an access contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy;

wherein said storing being equivalent to said registering of medical images in said data base;

means for compressing in data size said medical images when transmitted through said network and for decompressing in data size said medical images to original data size when received through said network by a subscriber seeking access; and

means for producing a backup of medical images registered in said data base.

94. (previously presented) A medical image servicing method utilizing a network generally available to the public, a plurality of subscribers connected to the network and a single server con-

...
nected to the network for commonly servicing the plurality of subscribers upon signaling thereby, wherein each of said plurality of subscribers has a registration contract entitling that subscriber to transmit medical images produced by an imaging device located in that subscriber through the network for registering in the single server and/or an access contract entitling that subscriber to receive medical images registered in said single server and transmitted through said network to that subscriber; the method comprising the steps of:

a subscriber having a registration contract signaling said single server through said network to transmit medical images produced by an imaging device of said subscriber through said network to be registered by said single server after said single server checks and verifies legitimacy of the request for registration of the medical images by that subscriber;

a subscriber having an access contract signaling said single server through said network to transmit medical images registered in said single server through said network to be received by said subscriber after said single server checks and verifies legitimacy of the request for access of the medical images by that subscriber;

compressing and decompressing data size of the medical images by the single server for registration and accessing; and

providing back-up for the medical images in the single server.

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Technology Center 2100

BEFORE THE BOARD OF APPEALS
IN THE US PATENT OFFICE

EXAMINER - Nguyen

GROUP - 2161

SN - 09/900569

FILED - 7/5/01

BY - Ogino

Sirs:

This Brief is in support of the Appeal filed 11/28/05 of the Examiner's Final Rejection of Claims 77-87 and 89-94 in the above application.

The Brief is filed in Triplicate together with the required Brief Fee of \$500.00, which is authorized to be charged to DA 11-1500 in a separate authorization filed in duplicate.

(1) STATUS OF CLAIMS

Claims 77-87 and 89-94, being all of the claims in the above application have been Finally Rejected and are now on Appeal. These claims were finally rejected on the following grounds:

Section 103, as being "unpatentable" over TIPIRNENI 6,381,029 in view of BARNES 6,912,317.

Claims 77-87 and 89-94, subject of the Appeal, are set forth in Appendix A-G, attached hereto.

(2) STATUS OF AMENDMENT AFTER FINAL REJECTION

None of the Amendments submitted after Final Rejection have been entered by the Examiner. Accordingly, the listed claims 77-87 and 89-94 listed in Appendix A-G and on Appeal do not contain

I hereby certify that the correspondence upon which this notice is placed is being deposited with the US Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, Box 1450 Alexandria, VA 22313, or to US Trademark Office, 2500 Crystal Drive, Arlington, VA 22202, on the date set forth below. MOONRAY KOJIMA, ATTORNEY

Date 11/13/06 (signed)

APPEAL BRIEF

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BOARD OF PATENT APPEALS
AND INTERFERENCES

any of the proposed amendments.

(2A) LIST OF CITED REFERENCES APPLIED IN FINAL REJECTION

(1) USP 6,381,029 issued on 4/30/02 to TRIPIRNENI

(2) USP 6,912,317 issued on 6/28/05 to BARNES

(3) SUMMARY OF THE INVENTION

The instant invention encompasses system (claims 93 and 77-87) and method (claims 94 and 89-92) of registering, storing and accessing medical images and information from a plurality of subscribers connected via a generally available network to a single server having a mechanism for checking the legitimacy, such as having a registration contract and/or accessing contract, of the subscriber before allowing the registration or accessing of the medical images and information. Each of the subscribers has a registration and/or accessing contract which entitles the registration holder to transmit and register medical images produced by that subscribers imaging device in the server and entitles the accessing contract holder to access the medical information in the server through the network. The single server comprises means for registering and storing the medical images and information and means for accessing such medical images and information and for transmitting same through the network to the subscriber at its request only after the legitimacy (e.g. subscriber having the registration and/or accessing contract) of the subscriber is checked.

For example, a subscriber, such as a doctor, located at a remote office can use his computer connected to the network, to

which the single server is connected, for registering or storing medical images and information by first entering a secure code (which is assigned to the holder of registration and/or accessing contract) which is checked by the server device for legitimacy, and requesting entry of the medical images and information. After checking legitimacy, the server allows entry into the system and recording of the medical images and information provided by the subscriber.

In a similar reverse manner, upon entry of the authorization code and request, the doctor can obtain access to any authorized medical image and information through his remote computer connected via the network to the single server. The server first checks the validity and legitimacy, such as whether the subscriber has a registration contract and/or access contract, of the subscriber and request, and then, if authorized, transmits the desired images and information.

Advantageously, a single protocol is used by all of the subscribers for entry to record and to access. In other words, the entire system is "unified", that is the subscribers, network and server are integrated as one system. Thus, efficiency, reliability and simplicity are considerably improved. Also, the costs of storage and accessing of medical images and information for a wide range of users from patients, doctors and hospitals to others is greatly reduced. Also, medical care quality is greatly improved because of the ready access to medical images and information by all these parties. Also, this is possible regardless of where

these parties are located provided they can be connected to a "generally available networkd, such as the Internet, to which the "single server" is connected, and to which the "plurality of subscribers " are also connected.

Before our invention, each hospital, doctor, etc, had its own library in which it placed medical images and information. Thus, only if a party were accredited to that hospital, etc, could he store or access the stored medical images and information. There was no system which incorporated a single server connected to a network, which was "generally available" to the public, to which an unrelated subscriber could be connected for storage and accessing of medical images and information using a single protocol. All the unrelated subscribed need do was enter a "registration contract and/or accessing contract" with the system provider. He then became part of the single protocol. On the other hand, we have made that jump by having that registration contract and/or accessing contract and means for checking the legitimacy of the subscriber prior to storing or accessing. This is further made advantageous by causing all of the plurality of subscribers to use a single protocol.

Accordingly, an important feature is that "each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said

single server". Also, an important feature is "means for checking and verifying legitimacy of a subscriber seeking to access desired medical images and information by signaling through the network".

Thus, we are able to control the storage and accessing of medical images and information, such as those sent by a subscriber having "registration contract and/or access contract", at a single location, that is at the "single server", which is available through "a generally available network" to a "plurality of subscribers".

On the other hand, a stranger, i.e. without a registration and/or access contract and assigned code, would be unable to invade the "single server" or central control system used therein, to "steal" or "identify" any concerned individual or information thereof. In other words, an unauthorized third party could not "steal" any medical images or information.

Also, we thus have in the central control system "means for processing and delivering said medical images and information through said network to said subscriber seeking access after checking and verifying legitimacy of the subscriber to the desired medical images and information". Moreover, in our system we include in the "single server", mechanism for "compressing" and "decompressing" the information data sent through the network. This allows for large scale storage of data from the plurality of subscribers using only a "single server" connected to the "network" available to the "plurality of subscribers". Also, we have in

the single server a backup system for the medical images and information which are registered in the data base. In this manner, safety, reliability and permanance are realized.

Other features and greater details are covered by the subclaims and will be discussed further under the heading "Arguments".

(4) ISSUES

The sole issue on appeal is: "Is the invention recited in claims 77-87 and 89-94 made obvious under Sec. 103 by a combination of TIPIRNENI 6,381,029 in view of BARNES 6,912,317.

(4A) APPLICANT'S POSITION

It is Applicant's position that the invention recited in claims 77-87 and 89-94 is NOT (NEGATIVE) made obvious by any combination of TIIRNENI and BARNES; and furthermore, that all of such claims are allowable as reciting an invention which meets all the statutory requirements for patentability.

(5) GROUP OF CLAIMS

There is only one group of claims. Main Claim 93 and subclaims 77-87 depended from main claim 93 are directed to a system/apparatus. Main claim 94 and subclaims 89-92 depended from main claim 94 are directed to a method.

Pursuant to the Rules on Grouping of Claims, Applicant hereby states that the claims of the above group does not stand or fall together. In the "Arguments" portion ehreof, each and every claim will be discussed and arguments presented as to patentability.

(6) ARGUMENTS

In the following discussion, Applicant will first present

argumentation as to the main claims 93 and 94, which are similar except one (93) is directed to the system/apparatus and the other(94) is directed to the method. The arguments will then be directed to each claim and the contentions of the Examiner.

CLAIMS 77-87 and 89-94 REJECTIONS UNDER SEC. 103 WITHOUT BASIS CLAIMS ARE ALLOWABLE.

There two main claims 93 (directed to system) and 94 (directed to method). The remaining claims are sub-claims. Each of the sub-claims, and the Examiner's comments directed thereto, will be set forth hereinbelow.

MAIN CLAIM 94 DIRECTED TO METHOD

Although the Examiner has alleged "claims 77-87 and 89-94 stand rejected under 35 USC 103(a) as being unpatentable over Tipirneni (6,381,029) in view of Barnes (6,912,317)" there is not one word of her specific reasons or ground for such rejection of the method claim 94. The same applies to the sub-claims 89-92 which depend from claim 94. The specific comments are directed to the specific wording of the system claim 93 and its sub-claims. There is no discussion of the specific method steps or wording thereof of main claim 94 and sub-claims 89-92.

This is in complete disregard for the requirements of MPEP 706.02(j) which requires that the Examiner in a Sec. 103 rejection set forth in the office action..."(A) the relevant teaching of the prior art relied upon, preferably with reference to the relevant column or page number (s) and line number(s) where appropriate.."

The only reference in the office Action to claim 94 was namely "Regarding claims 93 and 94... Tipirneni discloses... with everything set forth being directed only to the wording of the systems claim 93. There is not one word directed to the method steps of claim 94.

Clearly, the comments directed only to the systems claims 93 and 77- 87 are not (negative) necessarily applicable to the method steps of method claims 94 and 89-92. Hence, it is clear that the Examiner's lack of grounds for rejection does not support any rejection under Sec. 103.

In other words, the Examiner has not legally and factually supported her rejection of main claim 94 (and also sub-claims 89-92 dependent therefrom) in the MANNER REQUIRED BY THE MPEP.

Thus, Applicant's due process rights have been violated, and these method claims 93 and 89-92 were not validly rejected. The Examiner's actions are ARBITRARY AND CAPRICIOUS.

Accordingly, method claims 94 and 89-92 should be allowed, and such allowance is respectfully requested of the Board.

However, without prejudicing our position, to be completely responsive in the Appeal, applicant will incorporate in the arguments merits of method claims 94 and 89-92 when discussing the merits of system claims 93 and 77-87.

MAIN CLAIM 93 DIRECTED TO SYSTEM

To set the stage for the arguments, we will first discuss

generally the invention, references and main claim 93. Then, we will discuss the specific allegations set forth by the Examiner.

General Comments and Argumentation

Briefly, our invention encompasses "medical image servicing system (claim 93 et al) and "method" (claim 94 et al) comprising "a single server" at one location connected to a "network generally available to the public", such as the Internet, and to a "plurality of subscribers" located remotely thereof and being "commonly" thereto. The "single server" has "a data base", and "means for checking and verifying legitimacy of a subscriber seeking" seeking "registration" and/or "access. The "single server also comprises "means for registering in said data base medical images", and "means for processing and delivering medical images after verifying the legitimacy (e.g. holder of registration contract and/or access contract) of the subscriber.

We further recite that "each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through the network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images storedf in said single server".

The medical images and information, subscriber ID, instructions on processing, etc, can be sent from the subscriber through the internet to the single server, which is commonly accessible

to the plurality of subscribers, and upon verification of the legitimacy of the subscriber and request, the subscriber can send the medical images and information for registration, storage and/or processing to the "single server". Similarly, the request can be made for the delivery of the medical image or information or processed images and information from the "data base" and "single server" through the "network" to the "subscriber".

Advantageously, our invention enables increased availability of medical services throughout the USA at very low cost. All a doctor, for example in Wyoming, has to have is a computer in his office, to store, process and access medical images and information through out invention. He can also have an imaging device in his office and the medical images therefrom can be registered and stored with the "single server" at the remote location, such as in NYC. The remote doctor does not need to have any expensive equipment to store and process the medical information, since processing can be done at the "single server" side with equipment contained at the "single server" location. He does not have to use different protocols for different hospitals, libraries, etc to register, store and process and access various medical images and data. It will be like one person having a huge and expensive "back office", without the expensive cost of same. Because of our invention, cost of medicine is rapidly decreasing and effectiveness is increasing.

Other features of the invention include in the "single server" "means for compressing" and "means for decompressing" data. Thus, the invention provides greater storage capacity and increased transmission capacity, thus lowering cost further.

Also, our invention includes "means for providing backup..." Thus, safe permanent storage is assured by our invention.

The Examiner alleges that TIPIRNENI teaches all of the elements of our invention as recited in main claims 93,94, except for the "decompression" of data, which she alleges is taught by Barnes, and that therefore, under Sec 103, the invention as recited in claims 77-87 and 89 -94 are "unpatentable" since the invention recited in such claims would be "obvious" by the combination of the cited references Tipirneni and Barnes.

Applicant strongly disagrees with the Examiner. First of all Tipirneni does NOT teach or make obvious all of the elements of our invention, including the structural feature and the operational features thereof, as recited in the rejected claims. Moreover, the "decompression" step per se is not being claimed by us to be novel in itself. What we are asserting is that the combination of structural features and operational features in the manner recited in our claims is not taught by nor made obvious by the combined references Tipirneni and Barnes.

The following elements of claims 93 and 94 are not taught by nor made obvious by Tipirneni and/or Barnes singly or in combination and in the structural and operational combinations set forth in the claims. Please note, we are not claiming each element to be patentable and/or novel when considered separately, as the Examiner seems to believe. It is the combination of components and functions which make up our invention... and it is the combination which the cited references do not teach or make obvious.

(1) we recite "a plurality of subscribers" connected to the "network". If a physician is to be considered the subscriber, then, Tipirneni shows only one subscriber. This is separate from the camera 10 and uploading system 50.

(2) "each" subscriber has a "registrate contract and/or access contract" which enables him to transmit the medical image through the network for registration or request access to the registered data.

(3) "a single server" connected to the network, which comprises the following components...

(4) "data base"

(5) "means for checking and verifying legitimacy of a subscriber" that has a register and/or access contract.

(6) "means for processing and delivering said medical images and information through said network to said subscriber seeking access after checking and verifying legitimacy of said subscriber to said desired medical images and information".

(7) "means for registering in said data base medical images and information transmitted through said network by said at least one subscriber"

(8) "means for compressing" and "decompressing" data, and

(9) "means for producing backup".

General Discussion of TIPIRNENI the Primary Reference.

Tipirneni's system (FIG. 1) comprises internet 100, to which are connected Physician computer 150, host server 110, and upload system 50 to which is connected camera system 10. FIG. 2 details contents of camera system 10 (NOT, as seemingly alleged by the

Examiner details of server 110). FIG. 3 shows details of the upload system 50. FIG. 9 shows flow diagram of the uploading process. None of the other figures are discussed by the Examiner.

Storing of images from camera 10 is done using the upload system 50 which is connected through the internet 100 to host server 110.

Accessing is done (with appropriate password checking) by computer 150 through the internet 100 to the host server 110.

That is completely different from applicant's invention which has a "plurality of subscribers" which can itself produce medical images and information, which is sent through the "network" by the authorized subscriber for registration in the "single server" "data base", and then accessed by the authorized subscriber through the "network" from the "single server".

In other words, for a "plurality of subscribers" "each of which has an imaging device" "for producing medical images and information, using a common single protocol, the "medical images and information" can be sent through the network by that subscriber for registration in the "single server""data base", and then that or other subscriber can access the "registered" "medical images and information" through the "network". Look at our invention this way. Our invention provides a library, such as in NYC, which is connected through the "network" to a "plurality of subscribers" each of which having a "registration and/or access contract" can use that library for registration or storage of medical information and information which the subscriber can originate and then have access to that medical images and information stored in

"data base" of the "single server". Appropriate means are provided in the instant invention so that the appropriate contracts and ID can be checked and verified prior to allowing for registration and/or access. Advantageously, a single processing protocol can be used by all of the "plurality of subscribers" to obtain registration and/or access. Advantageously, the subscriber can be located a distance from the single server, such as in Montana with the server being in NYC. Thus, a unified single library is now available with our invention to greatly expand data base analysis for research and usage.

In contrast, Tipirneni's host server provides a "webpage" for the material sent by the "camera system 10" which is separate from the "physician's computer 150". There is nowhere shown or made obvious by Tipirneni, a "plurality of subscribers" wherein each has an "imaging device" for providing "medical information" for "registration" in the "single server" and for "access" therefrom through the "network". Moreover, there is nowhere shown any hint of the requirement of a "registration contract and/or access contract" to enable the holder to "register" and/or "access" such images and information, as required in our recited invention.

The physician's computer only obtains the "webpage" provided by the server. There is no provision for the physician to "register" and/or "access" medical images which he himself generates with an "imaging device" that he himself has. The camera system 10 is completely separate from the "physician computer 150".

Thus, even if Tipirneni were extended, he would still not show or make obvious our recited invention. There is no teaching which can be extended to make obvious a "plurality of subscriber" "each having a registration contract and/or access contract" which enables him to transmit through the network medical images to be registered and then he or others having the access contract and authorized to access that registered medical images" Each subscriber has an "imaging device". Thus, for example, a doctor in Wyoming can produce medical images himself and then have same registered/stored in the "data base" of the "single server" "connected to the network" which can be located for example in NYC. He or other authorized subscriber can then access such registered medical information through the "network". There is nothing in Tipirneni to teach such plurality of subscribers which has an imaging device and then which can transmit medical information through the network for registration/storage and then access.

All that Tipirneni teaches is that a camera system can store some image (in its own storage... not in the server) and then upload into the host server as a webpage, which can then be received by an authorized computer.

The Examiner has taken separate functions and without any teaching by the art, combined same and then reached the conclusion that such was obvious. It is only the Examiner's arbitrary and capricious prejudgment which is used to reject the instant invention. There is no reasonable application of the facts and law to the rejection. The Board should reverse the Examiner.

Clearly, Pipirneni does not make obvious under 103 the instantly claimed invention of claims 77-87 and 89-94.

General Discussion of Barnes, the secondary reference

Barnes was cited to show means for decompressing data size to original data size (col. 3, lines 14-35) and means for producing a backup (col. 3, lines 36-57). Clearly, Barnes has no relation to the instant invention. All Barnes teaches is a generalized teaching of decompression of data size and a backup. But, since Tipirneni does not teach or make obvious any of the other elements of the recited claims 77-87 and 89-94, even if combined, our invention would still not be taught or made obvious by the combination of Tipirneni and Barnes.

In FIG. 10, a PAC 10 comprises a file server 18 which receives and processes image data and makes same available for decompression. Also, PAC 10 comprises an archive 30 which serves as a backup.

Insofar as relevant, Barnes merely teaches a decompression technique based on information encoded in an image data file. A decompression portion is provided in code appended to the image, which is then operated on to provide the compression or decompression.

However, nothing is shown or made obvious of our recited "plurality of subscribers using the internet to register and/or access the medical images in a single server."

We are not asserting that "decompression of data" or "backup" per se are novel. It is the invention as expressed by the totality of the different structural and operations recited in the claims that we are asserting as novel and patentable. That is not shown

or made obvious by the references Tipirneni and/or Barnes whether considered singly or in combination.

Accordingly, clearly, the claims 77-87, and 89-94 are novel and patentable under 103 and the combined references are clearly lacking in evidential value. They do not support the Sec. 103 rejection and the Board should therefore reverse the Examiner.

Specific Allegations Regarding Claims 77-87, and 89-94
and Applicant's Response

The Examiner has (1) set forth each (except one) clause of the claims and then (2) set forth the specification parts of the references relied upon to show the clause. HOWEVER, that is not sufficient under the MPEP, nor the rules governing due process necessary to avoid the Applicant's being subjected to arbitrary and capricious action by a governmental official. This is because the Examiner has not (negative) in any logical manner connected up the reference teachings to the invention. The Examiner's rejection lacks coherence, relativity and substance. This is despite the Applicant bending over backward to explain our invention and the prior art. It seems that the Examiner had since she was assigned the case in 2001, prejudged the case and that all the subsequent actions on her part were to merely support her prejudgment.

The Board should be aware that Applicant already appealed once because of the arbitrary manner in which the examination was first handled. Since it appeared that another Examiner had then sent us another office action, we withdrew the appeal. But, somehow, the same Examiner again reappeared with the same type of arbitrariness.

We only seek the examination every applicant is entitled to, that is namey, for this appeal brief a third party Examiner consider

de novo the rejections.

What seems to be the case is this: The Examiner alleges that our claims recite A,B,C, etc; that reference Tipirneni specifically show A,B, etc; and that therefore combined with Barnes which shows C, the invention is made obvious, under Sec. 103.

The Examiner has not made a proper rejection. First, it is the totality of the claim, that is the combination of elements in the claim which must be considered... not.. whether each element is shown. Our claims connect up the different elements thereof to produce a new result. NOWHERE DOES SHE DISCUSS OR EVEN HINT AT DISCUSSING, WHAT IS OUR INVENTION WHEN ALL OF THE ELEMENTS OF THE CLAIM ARE CONNECTED TOGETHER AND THE RESULTS THEREOF.

Second, even the specific wording of the claims are not rejected in the proper manner or lack thereof accounted for. For example, we recite "registration contract and/or access contract" which enables the holder thereof to "register" and/or "access" . Where is that type of contract holding discussed. Also, in each "subscriber" there is claimed "imaging device". But, nowhere in any of the references is this shown, much less discussed by the Examiner. Another example is which of the "camera system 10" or "physician computer" is the "plurality of subscriber". There are so many deficiencies to this rejection, that it is difficult to list them all. But, we shall try in this Appeal Board Brief, so that the Applicant will receive that which he is due, a patent on its invention.

We now set forth each and every allegation with our argument.

(1) The Examiner alleges "Regarding claims 93 and 94, Tipirneni discloses a network generally available to the public (100, Fig.)"

Although Tipirneni shows "internet 100", it is not in the same context as in Applicant's recited invention. The only evidential value to Examiner's comments is that the "internet" is a known fact. But, as discussed below, the interconnection of the other parts of our recited invention are not shown or made obvious by Tipirneni.

(2) "a plurality of subscribers having imaging devices for producing medical images and connected to said network for transmitting through said network said produced medical images for storage"(col. e, line 7-62 and col. 6, lines 58 to col. 7 lines 7)

Regarding col. 3, lines 7-62, this refers to Figs. 1 and 2 (which discusses camera system 10) Thus, Figs. 1 and 2 do NOT show "a plurality of subscribers". The Examiner can contend that either camera 10 or computer 150 can be the "plurality of subscribers", but, not both. Thus, there is no "plurality of subscribers" shown or made obvious by Tipirneni. Also, camera 10 comprises in FIG. 2 a camera 12, digitizer 14, storage 16 connected to uploader 50. There is no "imaging device" in the "plurality of subscribers", as recited in our claims 93,94.

Thus, on this point, the Examiner is in FACTUAL ERROR. The Examiner does not seem to have carefully read the wording of this clause, nor has she carefully studied the reference Tipirneni. Unfortunately, she has not set forth her reasoning or analysis of the claim wording or of the reference teaching at this point.

Regarding col. 6, lines 58-col. 7, line 7 discusses system 5 of Fig. 1, and a password protection on multiple levels. It has no relevance to the quoted portion of claim 93, as above recited.

We are totally confused as to the relevance. We suspect the Examiner has merely thrown in this citation to give the semblance of reasonableness of rejection. But, factually, "password protection" has nothing to do with the claim.

Our system (and method) differs from Tipirneni in that we have a plurality of subscribers each connected to the network and a single server also connected to the network, with each subscriber having an imaging device for producing medical images which can be transmitted for storage in the server through a network. The subscriber has a contract for registration and/or accessing.

In contrast, Fig. 1 of Tipirneni shows one physician computer 150, one server 110, and separate from the physician computer 150 a camera 10 and uploading system 50, all of which are connected to the internet in the manner shown in Fig. 1. The computer 150 does not have camera 10 and uploader 50, or vice versa.

Thus, the Tipirneni system is completely different from and cannot be extended to make obvious our recited invention. The structural details and the operational details are completely different from and not made obvious by Tipirneni.

(3) "wherein each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the

subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said single server" (col. 6, line 58 to col. 7, line 7)

As above discussed this part of the reference discusses a "password protection on multiple levels". There is a passage stating that the operator may provide "temporary or permanent password" which entitles the user to become a temporary or permanent facility user. But, there is no disclosure of a subscriber having a "registration and/or access contract" which entitles the holder to register and/or access the medical information stored in the server after transmittal through the network.

But, note that Tipirneni refers only to "limit access to the webpage created by uploader system 50". In other words, in our invention, the subscriber can transmit its own image device obtained medical images through the network to the single server for registration and/or processing, provided he has a "registration contract". Also, with an access contract, he can then access such medical images.

In contrast, Tipirneni uploads images from camera 10 using uploader 50 and sends same through the internet to the host server. Then, a separate physician can read a webpage of the server containing the image sent by camera 10. It is not the physician that obtain the medical image or sent same through the internet.

It can thus be seen that our invention is completely different from and not made obvious by Tipirneni. Our combination of claims

elements and operations is clearly not shown or made obvious by Tipirneni.

(4) "wherein said medical images associated with at least one image selected from the group of imaging devices producing MRI, X-ray CT, ultrasound, PET, digitalized X-ray and CR" (col. 3 lins 37-62).

We are not asserting that these imaging devices are novel or patentable per se. However, in the combination recited in claims 93 and 94, it is the combination which is novel and unobvious and hence deserving of a patent.

Note, that our imaging device is provided within each subscriber which then provides the medical images which are then sent via the network to the single server for registration.

In contrast, camera 10 sends its images to the uploading system for storage and then uploading of the images to the host server for transcription onto a webpage. Careful reading of Tipirneni will show that his disclosure is nowhere close to our recited invention, nor made obvious thereby.

(5) "said single server, being separate from and used commonly by said plurality of subscribers, and being connected to said network for servicing said plurality of subscribers upon signalling from said plurality of subscribers" (100, 50, 150, 110, fig. 1)
"said single server comprising a database for storage of said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network upon signaling by said plurality of subscribers" (16, fig. 2).

The Examiner errors FACTUALLY. The "host server 110" is the

only server shown. It is connected to internet 100 and serves single physician computer 150. The cited item 100 is the internet, item 50 is the uploading system, item 150 is the physician computer, and item 110 is the host server. Thus, except for server 110 connected to internet 100, the Examiner is in complete error. Facts are facts and cannot be changed by wishful thinking or by an assertion of their being that which they are not.

Also, Fig. 2 shows details of camera system 10. It is NOT detailing of host server 110. Item 16 of Fig. 2 is a "storage" inside of camera system 10. It is not located within the server. It is also connected to the uploader 50.

Thus, the image from camera 10 is stored in the storage thereof and not stored within the data base of the single server as in our invention. So, a fair reading of Tipirneni will show that the images from the camera are stored in the storage thereof and then through the uploader 50 cause to be placed on a webpage for distribution by the server 110.

This is clearly not the same as nor could it make obvious the registration and accessing methods used in our recited invention. There is no similarity which can be extended to make obvious our invention. In point of fact, any extension of Tipirneni would still not show or make obvious our recited invention, regardless of whether the Barnes contribution of decompression and backup are added.

(5A) The Examiner does not mention the clause "a data base for storage of said medical images produced by said imaging devices

of said plurality of subscribers and transmitted through said network upon signaling by said plurality of subscribers".

According to the Rules, we can then assume that the Examiner concedes there is no such component shown in the prior art in the combination recited.

Thus, the Board should reverse the Examiner's rejection since the rejection is fatally defective on its face.

(6) "means for checking and verifying legitimacy of said plurality of subscribers seeking to store said medical image in said database of said single server or seeking to access said medical images stored in said data base of said single server" (col 6, lines 12-38)

The quoted part refers to Figs 3 and 9. Fig 3 is a "diagram of the uploading system in more detail". Fig. 9 is a "flow diagram of the process for uploading images from the uploading system to the host server".

Thus, clearly, the components shown in Figs 3 and 9 are NOT part of the recited "single server" of the instant invention. Note, our claim 93 refers to the "means for checking..." as being a component of the "single server". Tipirneni shows these as being part and parcel of the "uploading system 50" and NOT as a part of the host server 110.

Accordingly, in point of FACT, col. 6, lines 12-38 does not meet the wording above recited in this clause of the claims.

Moreover, note that we check and verify whether the subscriber is entitled to register and/or access the registered medical data

and information depending on the subscriber's contract.

(7)"means for registering in said data base said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network by ones of said plurality of subscribers having a registration contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy" (col. 7, lines 30-65)

Again, there is factual error. There is no data base in the host server 110 of Tipirneni. Also, the Examiner has not cited or offered in comments on lack of data base in any part of the office action. Moreover, Tipirneni does not produce medical images from imaging devices belonging to the subscriber. Also, Tipirneni has nothing to do with "registration and/or access contract". Also, there are no "means for registering" shown in "host server 110".

Thus, clearly, this clause is not shown by nor made obvious by the Tipirneni disclosure. The Board should reverse the Examiner.

(8) "means for accessing in said data base said medical images registered therein by ones of said plurality of subscribers having an access contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy"(col. 8, lines 31-62).

This means is not shown by Tipirneni, since he has separate "uploader" and "camera" and does not have "a plurality of subscribers" each having an "imaging device" and a "register contract and or access contract". Tipirneni has a computer 150" which accesses a "webpage" from the host server through the internet. The webpage

is produced by the uploading system and sent to the host server for distribution through the internet to the physician's computer 150.

Clearly, this recited clause is not shown by nor made obvious by Tipirnenialone or in combination with Barnes. The Board now has ample reason for reversing the Examiner and should do so.

(9) "wherein said storing being equivalent to said registering of medical images in said data base" (col. 5, lines 10-34) and "means for compressing in data size said medical images when transmitted through said network (col. 5, lines 10-34).

The language regarding "storing" and "registering" was intended to forestall any objection to such alternate uses.

The col. 5, lines 10-34 merely states that compression techniques are known. We are not asserting that such compression is novel or patentable by itself. Our claims recite such compression together with the other components of the claims which combination of structure and functions, we are asserting to be novel and patentable.

(10) The examiner alleges that Tipirneni does not show decompression nor means for backup, but that Barnes shows decompression and backup, and that combining these two references would thus make applicant's invention obvious under Sec. 103 and therefore unpatentable. This is stated at page 4, lines 3-page 5, line 2 of the OA mailed 9/13/05.

Applicant respectfully disagrees with the Examiner. First, Tipirneni does not show or make obvious all of the recited elements of applicant's main claims 93, 94, except for the Examiner's decompression step and backup. We have set forth the reasons for

disagreeing with the Examiner in the above. As to Barnes, the Examiner has cited col. 3, lines 14-35 and Col.3, liens 36-57 as showing means for decompression and backup respectively.

But, as discussed we are not asserting that "decompression" and "backup" are per se novel. What we are asserting as being novel and unobvious, is the combination of elements in the main claims 93 and 94. Clearly, the combination of Tipirneni and Barne do not show such combination of elements, nor make same obvious.

Tipirneni as above set forth has only a camera system and uploader connected to the internet, to which are respectively connected a host server and a physician's computer. That is nowhere close to our plurality of subscribers, each having an imaging device which produces medical images which can be transmitted to the singler server for registration using the network, and then accessing the stored medical images using the network, provided that subscriber has a registration contract and/or access contract.

Tipirneni has the camera system and uploader separate from the physician computer. In point of fact, careful reading of the disclosure shows that the images are stored in the camera system and then uploaded for placement on a webpage, which then is accessed by the separate computer.

Adding the decompression and backup means, does not add anything relevant to the Tipirneni disclosure vis-a-vis our recited invention. Accordingly, the Sec. 103 rejection of the main claim 93 and 94 is clearly without merit and should be reversed by the Board.

To repeat again, the due process mandated by the Law has not

been accorded applicant in that the Examiner rejects main claims 93 and 94, but does not support such rejection as to method claim 94. NOT ONE WORD ,EXCEPT RECITING OF 94, IS DIRECTED TO THE WORDING OF CLAIM 94 NOR ANY DISCUSSION OF HOW TIPIRNENI WOULD SUPPORT SUCH REJECTION. (See page 2, line 8 from bottom through page 5, line 2 of Office Action of 9/13/05).

Therefore, the Board should consider that Method claims 94 and 89-92 which depend therefrom are allowed since there is no recitation or discussion of the wording of claim 94 (and 89-92) nor any recitation or discussion of particular parts of the cited references would support such rejection. Such allowance is respectfully solicited.

Subclaims 77-87 and 89-92 Rejections not supported
By Facts; Claims are allowable

Subclaims 77-87 and 89-92 were also rejected under Sec. 103 as being unpatentable over Tipirneni in view of Barnes. Applicant respectfully traverses such rejections as being without foundation. No combination of the cited reference teaches or makes obvious the recited invention of sub-claims 77-87 and 89-92.

It is to be understood that the below arguments direct to the subclaims are in addition to the arguments set forth with respect to the main claims 93 and 94 from which these subclaims depend, and that all such arguments are to be considered part and parcel hereof by reference, and are to be considered to be repeated hereat.

In addition, it is to be understood that even though the sub-claims 77-87 and 89-92 are subclaims, the subject matter thereof in each subclaim is patentable above and beyond the subject matter of the main claims 93 and 94 from which the sub-claims depend. Thus, each claim will be considered to stand on its own for patentability.

Each of the claims 77-87 and 89-92 will now be discussed. It is noted that the Examiner has only repeated the wording of each subclaim and set forth the particular part of Tipirneni relied upon for the rejection, in the same manner as rejection of the main claims. This again necessitates our reciting again the wording of each subclaim. But, the Examiner does not apply and discuss specifically how the recited part of the reference applies to the rejection. It is as though the Examiner throws a ball and says to applicant catch it and tell me about it. That is not only unreasonable, but, arbitrary and capricious. Especially when we've discussed same in detail priorly... but, the Examiner has never countered our arguments. This is not an examination and prosecution. It is prejudgment and arbitrary rejection based on her prejudgment.

Subclaim 77. "...all the limitations of this claim have been noted in the rejection of claim 93 above" We are not quite sure what the Examiner means, except that we assume she means that all of the subject matter of the main claim have already been discussed and will not be repeated hereat. Similar wording is set forth in the rejection of the other subclaims, and will not be

repeated for sake of convenience and needless repetition.

The Examiner then states "In addition tipirneni/Barnes.." He then only refers to Tipirneni, in the specific parts of the reference relied upon for support of the rejection. Thus, we will not make reference to Barnes since the Examiner does not refer to any specific parts of Barnes. It will thus be assumed that reference to a specific part of the reference refers to Tipirneni, in the following discussion of all the subclaims.

"wherein said plurality of subscribers comprises a hard copy device"(100 of Fig. 1) . Item "100" is the "internet". Thus the Examiner errs factually. But, he is in error also because Tipirneni has no "plurality of subscribers" as above discussed. Also, if the Examiner is refering to item 10, the camera system, that is not a "hard copy" device. The camera takes images , stores same, and then using the uploader system uploads the images to the webpage in server 110.

"wherein said at least one subscriber transmits format information including image identifier information to said hard copy device, wherein hard copy device receives delivery information through said images corresponding to said image identifier information through said network and the provides a hard copy of said medical images" (col. 3, line 63-col. 4 line15).

The quoted part refers to Fig. 2 and the operation of the camera system 10, wherein the camera 12 sends images to digitizer 14, and then image storage 16, and then for uploading by system 50. There is nothing about "format information" "image identifier information" "hard copy devicer". The Examiner is again in FACTUAL

error, and there is no LEGAL BASIS for the Sec. 103 rejection of Claim 77, and the Board is asked to reverse the Examiner on this point.

Subclaim 78. "wherein said plurality of subscribers comprise a software executing subscriber running medical software for transmission through said network to said single server" (col 4, lines 16-42). This portion refers to the "uploader system 50," and software used therein. It does not refer to refer to "running medical software for TRANSMISSION THROUGH SAID NETWORK TO SAID SINGLE SERVER". There is a difference between using the software (as done by the uploading system of Tipirneni), and sending software through the network to the single server. It seems that the Examiner does not appreciate this difference. In any case, there is no support in Tipirneni to make obvious this feature of claim 78, and hence the claim is believed allowable.

"wherein said single server manages medical software and registers said medical software transmitted through said network by said at least one subscriber in said database and causes delivery of said medical software through said network to said software executing subscriber" (col. 6, lines 12-38). Fig. 3 refers to the "uploading system 50", and Fig. 9 refers to the flow diagram thereof.

There is no connection between our recited "single server" which manages the "medical software", and the "uploader system 50" of Tipirneni. Apparently, the Examiner has not carefully read and understood what exactly he is showing and doing. The rejection basis is so far off, that our legitimate conclusion is that

the Examiner has prejudged the case and is arbitrarily shoe-horning Tipirneni teaching to fit that prejudgment, regardless of what the facts are. The board is asked to reverse here rejection of this and all the other claims.

Subclaim 79. "wherein said plurality of subscribers comprise two or more subscribers, each connected to said network" (100, 150, 50 of Fig. 1). The Examiner is wrong. Tipirneni does not show "a plurality of subscribers", nor "two more more" Item 100 is the "internet". Item 150 is the "physician computer". and item 50 is the "uploading system". If computer 150 is the subscriber, there is only one. If "uploader system 50" is the subscriber there is only one. Item 100 is the internet. If he refers to camera 10 (details shown in FIG. 2), then there is only one. Moreover, there is nothing in the cited reference which would be extended to to make obvious the claimed invention. Also, note uploader system 50 is shown in detail in fig. 3, but still it is only one.

Subclaim 80 "wherein said plurality of subscribers comprises means for specifying types of image processing to be communicated through said network to said single server" (col. 3, lines 38-63)

This part of the reference describes contents of the camera system 10. However, it does not comprise means for specifying types of image processing to be communicated through the network to the single server. Note where the image processing is done in our invention, the single server. The description of the camera system 10 describes what is done to the image in the camera system. Thus, there is no description in Tipirneni of the quoted part of our

claim and the Sec 103 rejection has no basis and should be reversed.

Subclaim 81 "wherein said single server comprises means for informing said at least one subscriber through said network of type of image processing to be applied." (110, fig. 1).

Item 110 in Fig. 1 is the "host server". But, we are claiming the "means for informing..." which is part "comprises" of the "single server". Insofar as we can tell after careful study of Tipirneni, "host server 110" does not have such a means. Thus, clearly, the Examiner has no basis for the rejection and her rejection should be reversed and the claim allowed.

Subclaim 82. "wherein said single server comprises means for establishing communication with said at least one subscriber when image processing is completed" (110, 100, 50, 150 fig. 1).

Item 110 is the "host server", Item 100 is the "internet" (Item 10 is the "camera system", Item 50 is the uploader system" and item 150 is the "physician computer". But, none of these items are equivalent to the instantly claimed "single server", nor are they "comprised within the single server", nor does such "server" comprise means for establishing communication with the subscriber when the image processing is completed. Thus, clearly, There is no teaching which would show or make obvious the quoted part of claim 82, and hence, the Sec. 103 rejection is without foundation and should be reversed.

Subclaim 83. "wherein said plurality of subscribers comprise means for transmitting through said network to said server, a request for medical images subjected to image processing" (col. 3,

lines 38-62). This portion of the cited reference discusses FIG. 2 and the details of the camera system 10. It does not describe the "plurality of subscribers", nor any means therein which transmits a request for images subjected to processing. Note, that this is a request transmitted from the subscriber through the network to the server. That is not done by the camera system 10. Thus, clearly, there is no support for the 103 rejection and the rejection should be reversed and the claim allowed.

"and means for receiving said medical image from said single server through said network" (col. 5, lins 10-34) This is a part of each of the "plurality of subscribers". Receiving of the web page is by "physician's computer". But, the "means for transmitting" is done by the "camera system 10 and uploader 50". Thus, the language of our claim is not met by any of the elements of Tipirneni. Thus, the Sec. 10 rejection as to this point also is unfounded. The rejection based on this point should be reversed.

Subclaim 84. "wherein said single server comprises means for storing each medical image in at least one form before image processing (as compressed) " (col 5, lines 10-34) The referred to part describes the "uploader system 50, not any "single server" or part thereof which is recited in our claim. Note the difference it is the uploading system (or camera system) which stores any camera image. IT IS NOT THE "SINGLE SERVER". Thus, this portion of our claim is not shown or made obvious by Tipirneni. Accordingly, the Sec. 103 rejection is without basis and should be reversed.

"and means for storing each medical image in at least one form (decompressed) after said image processing" (col. 3, lines 14-35) This part describes the uploading system 50 ; not our "single ser-

ver". Thus, this element of our claim is not shown or made obvious by the reference, and the rejection should be reversed by the Board. The uploading system is not the "single server" of our invention.

Subclaim 85. "wherein said request is for only part or all of said medical image and wherein said part or all of said medical image are sent through said network to said plurality of subscribers" (col. 5, lins 10-34) Again, this part describes the "uploading system" and not the "single server " of claim 83. Also, we refer to "only part" of the "medical image". Careful reading of Tipirneni does not show any sending of only a part of the medical image through the network to the subscriber. The part of Tipirneni refers to the uploading system 50 but, even then, there is no discussion of sending only "part of" the image. Clearly, there is no support for this rejection.

Subclaim 86. "wherein said single server comprises means for polling said plurality of subscribers through said network to collect medical images before image processing" (col. 6, lins 12-3)

The referred to part describes Fig. 3 and 9, the uploading system and procedures used thereby. But.. there is not one word of any "means for polling"."before image processing". The Examiner is way off base on this point, and the rejection is without basis and should be withdrawn. The "uploading system" is not the same as our "single server" and therefore under no condition can it have any "means for polling", which it does not have under any condition. The rejection is without basis and should be withdrawn.

Subclaim 87. The Examiner mentions "Tanaka" but does not cite same. This is probably because the entire office action seem to be a computer run-off of the original first office action 4 years ago with only substitution of patentee's names. But, in any case, since Tanaka was not cited, we will not discuss same. The claim reads "wherein said single server comprises means for sending through said network to a delivery destination imaging conditions for said medical images "(col. 6, lines 12-38). This part refers to description of Figs. 3 and 9, which is the "uploading system 50". This has nothing to do with the instant "single server" nor "means for sending through the network to the delivery destination the imaging conditions, as recited in our claim. The uploading system is completely irrelevant to such single server and means contained therein, and the Sec 103 rejection has no basis of support and hence should be reversed.

Subclaim 89 Directed to Method . Subject to our position that the method claim 94 has not been properly rejected and hence is allowed under the Rules, we are further discussing the method subclaims rejections to be complete in our argumentation.

"wherein one subscriber requests delivery of said medical images and comprises the further steps of requesting identifier information by said single server through said network from said one subscriber" (col. 7, lines 30-65)" The quoted part describes operation of the "physician computer 150" and the password system used. But, it does not set forth that the single server requests such identifier information through the network from the one subscriber seeking medical images. It is when the Examiner selects

which is the "single server" and which is the "plurality of subscribers" that it becomes clearer that our claim language is not shown or made obvious by the combined references Tipirneni and Barnes.

"reading medical images from said database; sending each medical image from said single server through said network to said one subscriber and display said medical images by said one subscriber" (col. 8, lines 31-62) This portion describes how "physician computer 150" accesses the server 110. But it is not applicable since that is not the "single server" as defined in our claim. Also, it is not "reading medical images from said database", which is part of the "single server". In Tipirneni, the storage is part of the "camera system". Thus, the Section 103 rejection of this method subclaim has no support and should be withdrawn.

Subclaim 90. "wherein said one subscriber requests through said network of said single server registration of said medical images and comprising the further steps of requesting imaging conditions by said single server to said one subscriber or by said one subscriber to said single server through said network" (col. 7, lines 5-17) The quoted part has to deal with "passwords and how to handle". There is nothing stated about "imaging conditions". Perhaps, the wrong portion was quoted. But, in any case, the Sec. 103 rejection has no support at this part of the reference. Thus, the Board should reverse the Examiner's rejection, and allow the claims and the entire case.

"sending said imaging conditions by said one subscriber to said single server through said network or by said single server to said one subscriber through said network" (col. 7, lines 5-17) As discussed with reference to the immediately above clause, clearly the "imaging conditions" are not discussed by this part of the reference, nor any point made as to which is the single server and subscriber of the plurality of subscribers. Clearly, there is not Sec. 103 support and the Board should reverse the Examiner's rejection.

"said single server registering said medical images according to imaging conditions in said database" which is a part of the single server. (col. 6, lines 12-37). The referred to part describes the "uploading system ", NOT the single server. Thus, the reference is not applicable at this point, and the Sec. 103 rejection is not supported and should be reversed.

Subclaim 91. "All the limitations of this claim have been noted in the rejection of claims 76 (we assume there is an error since there is no claim 76), 89 and 90 above". Since these have already been discussed, there is no further need for further discussion.

Subclaim 92. "wherein said single server further sends through said network to said one subscriber request for identification information and said one subscriber sends such identification information to said single server through said network, wherein said single server reads medical images from said database and processes said medical images prior to sending results thereof to said one subscriber through said network" (col. 7, line 31 to col. 8, line 62).

As above discussed, this portion of Tipirneni discusses the password and ID procedure. In terms of relevance, he does not show or make obvious the reading by the single server of medical images from said database and then processes the medical images prior to sending same to the subscriber through the network. There is nothing shown or made obvious by Tipirneni about the single server "processing" the medical images. Also, note that Tipirneni's "host server" does not perform the same functions as recited by the instant claims. Furthermore, such "host server" does not comprise the various means recited in the claims. Accordingly, the quoted parts taken in context do not teach or make obvious the instant invention of claim 92, and the rejection should be reversed and the claim allowed.

Summary and Conclusion

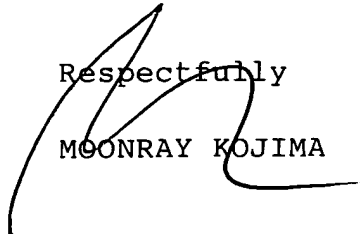
In view of the foregoing, clearly, the Section 103 rejection over Tipirneni and Barnes is without basis, and the rejection is without basis and should be reversed.

Accordingly, applicant prays that the Board reverse the Examiner completely and allow all of the claims and allow the application.

The Brief fee is authorized to be charged to the DA as per the separate paper. Also, an Oral Hearing will be requested in a timely manner.

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Respectfully



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CLAIMS ON APPEAL

Claims 1 - 76 (cancelled)

77.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise a hard copy device; and wherein at least one subscriber transmits format information including image identifier information to said hard copy device and through said network to said single server; and wherein said hard copy device receives from said single server through said network delivery of said medical images corresponding to said image identifier information and then provides a hard copy of said medical images.

78.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise a software executing subscriber running medical software for transmission through said network to said single server; and wherein said single server manages medical software and registers said medical software transmitted through said network by at least one subscriber in said data base and causes delivery of said medical software through said network to said software executing subscriber.

79.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise two or more subscribers, each connected to said network.

80.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise means for specifying types of image processing to be communicated through said network to said single server.

81. (previously presented) The system of claim 93, wherein said single server comprises means for informing at least one subscriber through said network of type of image processing to be applied.

82. (previously presented) The system of claim 93, wherein said single server comprises means for establishing communication through said network with at least one subscriber when image processing is completed; and means for transmitting through said network said medical images subjected to said image processing to said at least one subscriber.

83.(previously presented) The system of claim 93, wherein said plurality of subscribers comprise means for transmitting through said network to said single server, a request for medical images subjected to image processing; and means for receiving said medical images from said single server through said network.

84.(previously presented) The system of claim 93, wherein said single server comprises means for storing each medical image in at least one form before image processing; and means for storing each medical image in at least one form after said image processing.

85. (previously presented) The system of claim 83, wherein said request is for only part or all of said medical images and wherein said part of all of said medical images are sent through said network to said plurality of subscribers.

86.(previously presented) The system of claim 93, wherein said single server comprises means for polling said plurality of subscribers through said network to collect medical images before image processing.

87. (previously presented) The system of claim 93, wherein said single server comprises means for sending through said network to a delivery destination imaging conditions for said medical images.

Claim 88. (cancelled)

89. (previously presented) The method of claim 94, wherein one subscriber requests delivery of said medical images; and comprises the further steps of:

requesting identifier information by said single server through said network from said one subscriber;

sending identifier information by said one subscriber to said single server through said network;

reading medical images from said data base in said single server;

sending each medical image from said single server through said network to said one subscriber; and

displaying said medical images by said one subscriber.

90. (previously presented) The method of claim 94, wherein one subscriber requests through said network of said single server registration of said medical images; and comprises the further steps of:

requesting imaging conditions by said single server to said one subscriber or by said one subscriber to said single server through said network;

sending said imaging conditions by said one subscriber to said single server through said network or by said single server to said subscriber through said network; and

said single server registering said medical images according to imaging conditions in said data base.

91. (previously presented) The method of claim 94, wherein one subscriber requests of said single server by signaling through said network processing of said medical image, and comprising the further steps of:

said single server processing said medical images;

said single server then sending results of processing through said network to said one subscriber; and

causing said one subscriber to display results of said processing of said medical images.

92.(previously presented) The method of claim 91, wherein said single server further sends through said network to said one subscriber request for identification information, and said one subscriber sends such identification information to said single server through said network; wherein said single server reads medical images from said data base and processes said medical images prior to sending results thereof to said one subscriber through said network.

93.(previously presented) A medical image servicing system comprising:

a network generally available to the public;

a plurality of subscribers having imaging devices for producing medical images and connected to said network for transmitting through said network said produced medical images for storage and for receiving through said network said stored medical images;

wherein each of said plurality of subscribers has a registration contract and/or access contract whereby the registration contract entitles the holder thereof to transmit through said network said medical images produced by imaging devices of the subscriber to a single server for storage, and whereby the access contract entitles the holder thereof to receive through said network said medical images stored in said single server;

wherein said medical images are associated with at least one image selected from the group of imaging devices producing MRI, X-ray CT, Ultrasound, PET, digitalized X-ray and CR; and

said single server, being separate from and used commonly by said plurality of subscribers, and being connected to said network for servicing said plurality of subscribers upon signaling from said plurality of subscribers; said single server comprising:

a data base for storage of said medical images produced by said imaging devices for said plurality of subscriber and transmitted through said network upon signaling by said plurality of subscribers;

means for checking and verifying legitimacy of said

plurality of subscribers seeking to store said medical image in said data base of said single server or seeking to access said medical images stored in said data base of said single server;

means for registering in said data base said medical images produced by said imaging devices of said plurality of subscribers and transmitted through said network by ones of said plurality of subscribers having a registration contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy;

means for accessing in said data base said medical images registered therein by ones of said plurality of subscribers having an access contract upon signaling by said ones of said plurality of subscribers and upon checking and verifying legitimacy;

wherein said storing being equivalent to said registering of medical images in said data base;

means for compressing in data size said medical images when transmitted through said network and for decompressing in data size said medical images to original data size when received through said network by a subscriber seeking access; and

means for producing a backup of medical images registered in said data base.

94. (previously presented) A medical image servicing method utilizing a network generally available to the public, a plurality of subscribers connected to the network and a single server con-

nected to the network for commonly servicing the plurality of subscribers upon signaling thereby, wherein each of said plurality of subscribers has a registration contract entitling that subscriber to transmit medical images produced by an imaging device located in that subscriber through the network for registering in the single server and/or an access contract entitling that subscriber to receive medical images registered in said single server and transmitted through said network to that subscriber; the method comprising the steps of:

a subscriber having a registration contract signaling said single server through said network to transmit medical images produced by an imaging device of said subscriber through said network to be registered by said single server after said single server checks and verifies legitimacy of the request for registration of the medical images by that subscriber;

a subscriber having an access contract signaling said single server through said network to transmit medical images registered in said single server through said network to be received by said subscriber after said single server checks and verifies legitimacy of the request for access of the medical images by that subscriber;

compressing and decompressing data size of the medical images by the single server for registration and accessing; and

providing back-up for the medical images in the single server.